COVID-19 — TEST FOR THE WORLD’S LEGAL SYSTEMS
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<td><strong>CC RF</strong></td>
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<td><strong>CDA</strong></td>
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<td><strong>CDC</strong></td>
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<td><strong>Civil Contingencies Act</strong></td>
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<td><strong>CJEU</strong></td>
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<td><strong>Constitution of the PRC</strong></td>
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<td><strong>Coordination Council</strong></td>
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<td><strong>CoronaEinrVO</strong></td>
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<td><strong>CoronaSchVO</strong></td>
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<td><strong>Decision on Serious Cross-border Threats to Health</strong></td>
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<td><strong>Decree No. 2020-260</strong></td>
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<td><strong>Decree No. 2020-293</strong></td>
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<td><strong>Decree No. 2020-545</strong></td>
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<td>Acronym</td>
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<td>DPA</td>
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<td>DPRF No. 239</td>
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<td>EAEU</td>
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<td>ECtHR</td>
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<td>EEC</td>
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<td>Emergency zone</td>
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<td>Epidemic Act</td>
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<td>ESC, Charter</td>
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<td>EU</td>
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<td><strong>FIPA</strong></td>
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<td><strong>French Constitution</strong></td>
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<td><strong>High Preparedness Act</strong></td>
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<td><strong>ILC</strong></td>
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<td><strong>Italian Constitution</strong></td>
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<td><strong>MOR</strong></td>
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Operational Headquarters

The Operational Headquarters for the prevention of the importation and spread of new coronavirus infection in the territory of the Russian Federation

Paris Standards


PHA, Agency

The Public Health Agency, Sweden

PHC

The Public Health Code, France

PHEIC

Public Health Emergency of International Concern

Presidential Decree No. 12

The Decree of the President of the Russian Federation No. 12 “On approval of the procedure for public authorities to prevent the threat of emergencies associated with the importation into the territory of the Russian Federation and the spread of dangerous infectious diseases on the territory of the Russian Federation”

Public Health Act

Public Health (Control of Disease) Act 1984, the United Kingdom

Resolution No. 304


Resolution of the Government of the Russian Federation No. 409


Royal Decree No. 463/2020

The Royal Decree No. 463/2020 on March 14, 2020, Spain

Royal Decree No. 900/2020

The Royal Decree No. 900/2020 of October 9, 2020, declaring the state of alarm, Spain

Royal Decree No. 926/2020


Royal Decree No. 956/2020

The Royal Decree No. 956/2020 of November 3, 2020, extending the state of alarm, Spain

Royal Decree-Law No. 21/2020

The Royal Decree-Law No. 21/2020 of June 9, 2020, on urgent prevention, containment, and coordination measures to deal with the health crisis caused by the COVID-19, Spain
Royal Decree-Law No. 25/2020
The Royal Decree-Law No. 25/2020 of July 3, 2020, Spain

Royal Decree-Law No. 29/2020
The Royal Decree-Law No. 29/2020 of September 29, 2020, “On urgent measures in the field of teleworking in Public Administrations and human resources in the National Health System to tackle the health crisis caused by COVID-19”, Spain

Royal Decree-Law No. 8/2020
The Royal Decree-Law No. 8/2020 of March 17, 2020, Spain

Second Corona Tax Aid Act
The Second Act on the Implementation of Tax Aid Measures to Manage the Corona Crisis, Germany

Siracusa Principles
Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights of 1984

SMEs
Small and medium-sized enterprises

Stafford Act
The Robert T. Stafford Disaster and Emergency Assistance Act, the United States

UDHR, Declaration
Universal Declaration of Human Rights of 1948

VAT
Value-added tax

WHA
World Health Assembly

WHO
World Health Organization
INTRODUCTION

The ongoing COVID-19 pandemic has not only become a global health and economic challenge but has also raised the questions of the sufficiency of emergency regulations at the international and national levels and the selection of the most effective response measures. The results of this research can be used to improve existing regulation, introduce the best approaches and practices for the prevention and response to emergencies, including in the health sector, in the future.

The present research examines the legal framework applicable to emergencies in general and the current pandemic at the international, regional (EAEU, EU), and national levels (China, France, Germany, Italy, the Russian Federation and its subjects, Spain, Sweden, the United Kingdom, the United States). Both the pre-existing regulation and its evolution caused by the COVID-19 pandemic have been studied. The Analytical Report describes the tools to support organizations and citizens, as well as measures to restrict their rights and freedoms (restrictive measures) taken to mitigate the consequences of the pandemic and to combat the spread of the virus respectively.

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CONCLUSIONS

1. The legal regulation of public relations arising from public health emergencies at the international level is mainly carried out within the framework of the International Health Regulations of 2005, which are legally binding for the WHO members. Defining a public health emergency of international concern and the international obligations of States towards WHO, other States, and the population, the IHR do not contain detailed regulation of such situations. In this regard, in the context of the COVID-19 pandemic, such regulation was implemented through the adoption of WHO interim recommendations, the scope of which was adjusted by supplementing them depending on changes in the epidemiological situation.

2. At the regional level, the regulation differs depending on the level of integration of the member States of the relevant union. The EU has mechanisms for responding to health emergencies both at the union level and at the level of the Member States. General measures are taken at the EU level, and more specific measures are taken at the level of individual States. With regard to the spread of COVID-19, general measures were taken in the areas of health, economy, finance, and tourism. In addition, in the EU, there is permanent coordination between the union authorities and the Member States, which is reflected in the exchange of information on the state of the epidemiological situation, needs assessment, and ensuring a coherent response to the COVID-19 pandemic. There are no such mechanisms in the EAEU, since this integration union is focused more on the freedom of trade between the Member States and implementation of a coordinated policy in the economic sector rather than on health issues. In this regard, at the EAEU level, measures were taken, on the one hand, to suspend duties on the import of goods intended to prevent the spread of COVID-19 on the territory of the EAEU, and on the other, to introduce a temporary ban on the export of such goods from the EAEU States. At the same time, the measures to help stabilize the economic situation were taken at both the EU and the EAEU levels. Nevertheless, it appears that the establishment of a more detailed regulation regarding the adoption of coordinated measures in the areas of trade and economy by States during emergencies at the EAEU level can contribute to a more effective response to challenges similar to the COVID-19 pandemic in the future.

3. In the absence of detailed regulation at the universal and regional level, States act at the national level based on an assessment of the situation within their territory, relying primarily on their own legislation, including constitutional and other provisions that regulate the relations arising in the context of emergency situations. The creation of relevant international regulations or guidelines would have allowed States to make decisions more quickly and in a more balanced manner.

4. A common feature of the legislation of all the examined States is the possibility of introducing special legal regimes in the event of an emergency. Most of these provisions are contained in the constitutions and are elaborated in special legislation. Detailed legislative regulation in terms of special legal regimes allows States to respond more quickly to emergency situations, including by expanding the powers of authorities and speeding up the procedure for adopting regulations and appropriate measures, since legal clarity and predictability in the exercise of public powers and taking response measures by authorities at various levels are provided.

5. Special legislation providing for regulation in the case of the spread of infectious diseases specifically was adopted in a number of States before the COVID-19 pandemic (Germany, Spain, Sweden, the United Kingdom, the United States, China, the Russian Federation) and during it (France, Italy) and has proved to be necessary. In the context of the COVID-19 pandemic, special regimes were introduced by almost all the States considered. The exception was Sweden, where at the initial stage of the spread of COVID-19, such a regime was not introduced and no restrictive measures were taken either in the industrial or non-productive sectors, due to the national strategy for the development of herd immunity. At the same time, with the beginning of the second wave of the COVID-19 pandemic, this strategy was revised, and the
adopted “pandemic” law introduced a special regime. In the other States examined, as the number of cases of infection decreased or increased, the corresponding regimes were canceled or re-introduced.

6. Initially responding to the COVID-19 pandemic, States retained the division of competence between national and local authorities determined by the political system. Thus, the centralized approach was initially adopted in unitary States (France, Italy, China), while the decentralized approach was adopted in federal States (Germany, the United States, the Russian Federation) and the United Kingdom, which has a quasi-unitary structure, since it includes autonomous entities. At the same time, the centralization of power was observed in the generally decentralized system of Spain.

7. As the pandemic progressed, however, in France, Italy, Spain, and China, a trend of transition from centralization to decentralization in the context of the measures taken started to occur, primarily due to the implementation of a risk-based approach by States. In particular, the imposition of the same restrictive measures throughout a State was replaced by the division of the territory into zones depending on the number of infections and the adoption of proportional restrictive measures. At the same time, the competence to take appropriate measures is transferred to local authorities (Italy, Spain, China). In this regard, it appears that the decentralization of decision-making and the risk-based approach can provide the most effective response to emergency situations such as COVID-19.

8. The following containment measures regarding population were common to most jurisdictions during the first wave of the COVID-19 pandemic: 1) the quarantine, as temporary isolation of people infected or suspected of contracting an infectious disease; 2) the restriction or prohibition of movement; 3) the restriction or prohibition of public gatherings; 4) the mandatory wearing of masks and use of other personal protective equipment; 5) the social distancing requirement. Some States have also developed apps to track the location of people infected with COVID-19, as well as contacts with those infected. In most cases, such apps are used on a voluntary basis, in some regions of the Russian Federation — on a mandatory one.

9. As the spread of COVID-19 decreased in the summer of 2020, the States began to relax their restrictive measures, while maintaining, for example, the requirements for wearing masks and ensuring social distance. However, with the second wave of COVID-19 and the increase in the number of infected people in the fall of 2020, measures were tightened up to the re-introduction of curfews and lockdowns in certain parts of the States’ territories.

10. In response to the spread of the pandemic, containment measures regarding non-productive sectors of the economy were also taken. Cultural, sports, and entertainment venues were closed to the public. The exception was made for the enterprises providing services or selling essential goods. The industrial sector was largely unaffected by the restrictions due to the classification of the relevant enterprises as critical infrastructure or as exceptions (manufacturers/sellers of medical protective equipment, medicines, vital household supplies, etc.). Meanwhile, as the spread of COVID-19 decreased and depending on the epidemiological situation, some States began to relax the restrictions imposed, while maintaining the requirements for compliance with hygiene measures and social distance at enterprises.

11. At the initial stage of the pandemic, in the field of transport, most States imposed restrictions on entry into their territory, including the entry of foreign citizens from China and other States and regions with a high level of COVID-19 infections. Besides, passenger and cargo transportation (except for essential and perishable goods) was suspended in Italy and Spain. Individual US states also imposed restrictions on the movement of people within the country, prescribing a mandatory 14-day quarantine for those entering a state. Over time, these restrictions were relaxed and adapted to the epidemiological situation in a State. At the same time, as a rule, persons entering a State are required to provide a negative coronavirus PCR test.

12. In the health sector, the measures taken during the first wave of COVID-19 were mainly aimed at providing national health systems with the necessary resources to counter the pandemic, which allowed to
avoid overloading them. With the development of vaccines against COVID-19, the States mainly focused on the process of vaccination of their population with prioritizing some groups of people, usually depending on age, the presence of chronic diseases, and the field of work.

13. Besides, the COVID-19 pandemic has accelerated the pace of digitalization in various areas. For example, the transfer of employees to remote work has contributed to the development of labor legislation. The digital provision of public and commercial services also began to develop.

14. In the field of education, educational institutions were temporarily closed and the distance learning format was implemented. As the spread of COVID-19 decreased, States began to resume classes in educational institutions with proper hygiene measures, while maintaining the possibility to hold classes remotely in case of an increase in the number of infected persons.

15. Non-compliance with containment measures is subject to administrative and/or criminal liability in all the States examined.

16. All States have taken support measures for organizations, in particular:

   • tax holidays, subsidies to SMEs, deferred rent payments, bankruptcy and on-site inspections moratoriums (the Russian Federation);
   • government loans, direct subsidies for small businesses and self-employed, guarantees and other means of securing bank loans, direct cash payments, VAT reduction (Germany);
   • suspension of the foreign direct investment liberalization regime in certain strategic sectors (critical infrastructure; critical technologies and dual-use goods; sectors with access to confidential information; mass media) (Spain);
   • concessional loans to SMEs, sometimes in certain sectors of the economy (Spain, the United Kingdom, China, the United States, the Russian Federation);
   • funding of research and development of vaccines and treatment, public health, provision of medicines, assistance in the global effort to combat COVID-19 (the United States).

17. In most jurisdictions, foreign companies or companies with foreign investment could also apply for support measures, subject to certain conditions, mainly related to tax residency or registration in the relevant country.

18. Despite the decline in the spread of COVID-19, most States have extended the measures taken to support the industrial and non-productive sectors.

19. Support measures for the population were also taken in all States and included:

   • unemployment benefits (France, the United States, the Russian Federation) and other employee support (Germany, Italy, Spain, the United Kingdom, the United States, China, the Russian Federation);
   • child benefits (Germany, Sweden, the Russian Federation);
   • lump sum payments (France, Italy, the United States, the Russian Federation);
   • loans to self-employed (Spain);
• funding free coronavirus testing (the United States) and reducing the financial costs of treatment (China);

• financial support for students (Germany, the United States);

• reducing housing rents, credit support incentives and deferred interest payments, tax deferrals, and reduced social security payments (China).

20. Besides, in Russia, the validity period of a number of documents (in particular, passports, driver’s licenses, migration cards) was extended, official paid non-working days were established, credit holidays were introduced, and non-material assistance to vulnerable categories of citizens was provided.

21. With the second wave of the COVID-19 pandemic, as a general rule, the support measures for the population were extended with some changes and additions.

22. The introduction and extension of containment measures raised some questions with regard to possible violations of various rights and freedoms and, as a result, led to their judicial challenge.

23. As a rule, the courts have recognized the introduction of appropriate restrictions as a legitimate exercise of power, as well as proportional and necessary for the protection of public health (France, Germany, Italy, Spain, the United Kingdom, the United States, the Russian Federation). At the same time, the courts of some States have faced the need to determine the powers of local authorities in the field of public health. In this regard, there is a tendency to recognize the excess of power on the part of local authorities in the case of taking measures that are inconsistent with the national ones or deviate from them (Italy, Spain, the United States).

24. In some cases, the measures taken were declared illegal due to, for example, violations of the right to freedom of assembly (Spain), the right to freedom of religion (France, the United States), the procedure for introducing them (the United States), the lack of convincing legal arguments and scientific evidence confirming the need to introduce the measure (Italy, Spain). Besides, since the start of the mass vaccination process, cases involving the issue of access to COVID-19 vaccines by certain groups of the population have begun to appear in the courts (France, Spain).

25. At the same time, no cases challenging the measures imposed were found in Sweden and China. In Sweden, this is due to the advisory nature of the measures, and in China — due to the procedural impossibility of challenging them in the State courts.

26. In general, Russia’s response to the COVID-19 pandemic is in line with the global approaches both in the field of regulation and in the context of specific measures to support the population and organizations and counter the spread of the virus.

27. First, the need for special legislation providing for regulation in the case of emergencies, including the spread of infectious diseases, was proved. In the Russian Federation, even before the COVID-19 pandemic, there was special legislation on emergency response. It was applied in the context of the pandemic. At the same time, in order to respond more effectively to the pandemic, the legislation was amended to expand the powers of the subjects of the Russian Federation. Such amendments will enable the State to respond quickly to any possible spread of infectious diseases in the future.

28. Second, the risk-based approach of States founded on the decentralization of power has proved its effectiveness. However, it is worth noting that, despite the use of the risk-based approach to responding to the pandemic in the Russian Federation, there was disunity and inconsistency among its subjects to which the authority to take appropriate measures was delegated. This, in turn, had a negative impact on the operation of the industrial and non-productive sectors. General guidelines and instructions issued by
the federal government and establishing certain frameworks for the actions of the regional authorities could provide clarity and predictability of the measures taken, as well as eliminate possible risks associated with the violation of the unity of the Russian economic area.

29. Third, the containment measures taken by States should be as targeted as possible, aimed at certain sectors of the economy and population groups, as well as proportionate to the existing epidemiological situation. In the Russian Federation, as in many other States, at the initial stage of the spread of COVID-19, there was a tendency to take common general measures for the population and the economic sphere. However, over time and after the analysis of the consequences the measures taken have led to, the Russian authorities began to take more targeted measures, aimed at certain objectives, taking into account the principle of proportionality.

30. Fourth, the introduction of containment measures requires a State to have budgetary resources to take appropriate support measures. In general, the reserve funds of the Russian Federation provided a timely and appropriate response to the COVID-19 pandemic and its consequences.

31. Fifth, in order to prevent abuse of power by authorities in taking containment measures in States, there should be the provided possibility of judicial control over compliance with the criteria of necessity and proportionality during the introduction of such measures. Based on the judicial practice of the Russian Federation related to challenging containment measures taken by federal and regional authorities, it could be concluded that the courts tend to analyze the criteria of necessity and proportionality by finding a balance between the protection of the life and health of citizens and the rights and freedoms of a particular citizen.
SUMMARY

1. Natural and man-made emergencies, such as droughts, floods, epidemics, and industrial accidents, can be of a cross-border nature. At the same time, there are currently no international treaties at the universal level (with the exception of those in the field of public health) that regulate general issues of response to them both on the part of individual States and the international community as a whole. Besides, there is no generally accepted term for such situations in international law: the concepts of “emergency”, “state of emergency”, “disaster” are used (paras. 1–5 of Annex 1 to the Analytical Report).

2. At the universal level, international legal regulation of issues arising from public health emergencies is carried out within the framework of the IHR 2005, which are aimed at preventing the international spread of diseases, protecting from them, and combating them through response measures. The IHR 2005 define what constitutes a “public health emergency of international concern”, as well as the procedure to be followed by WHO and the State in whose territory an event that could create such a situation occurred (paras. 6–13 of Annex 1 to the Analytical Report).

3. WHO recommendations also play an important role in the area of public health emergency management. WHO’s evidence-based recommendations are not mandatory regulations aimed at governing emergency situations and their consequences. However, they are intended to guide States in making appropriate decisions and actions. During the spread of COVID-19, WHO adopted a number of interim recommendations that guide States when taking health measures to combat COVID-19 (paras. 14–24 of Annex 1 to the Analytical Report).

4. While States have the freedom to respond to emergencies, a number of international legal instruments establish a framework for such freedom to prevent abuse (IHR 2005; UDHR; ICCPR; ICESCR; ECHR; ESC; recommendatory international instruments: the Paris Standards and the Draft Articles on the Protection of Persons in the Event of Disasters) (paras. 25–78 of Annex 1 to the Analytical Report).

5. At the regional level, inter alia, EU legislation provides for the possibility of occurrence of a serious cross-border threat to health in the EU Member States and contains provisions on the legal regulation of issues arising in connection with it. In the event of such a threat to health, the European Commission issues appropriate executive orders and notifies WHO. EU legislation defines the term “health measure”, and the EU Member States responsible for responding to public health emergencies within their borders have the right to take health measures in response to a serious cross-border threat to health. Such measures should be proportionate to the health risks and not contradict international legal instruments (paras. 1–10 of Annex 2 to the Analytical Report).

6. With regard to the COVID-19 pandemic, the EU authorities have been undertaking a set of support measures in various areas of public life (health, economy, finance). At the same time, at the EU level, restrictive measures were introduced only in tourism (paras. 11–1.3 of Annex 2 to the Analytical Report).

7. The regulation at the level of the EAEU does not provide for a mechanism for responding to emergencies. At the same time, with regard to the spread of COVID-19, the EAEU bodies adopted a number of decisions aimed at promptly responding to the spread of the virus and helping to stabilize the economic situation in the EAEU Member States (paras. 30–38 of Annex 2 to the Analytical Report).

8. The analysis of the existing regulation at the universal and regional levels leads to the conclusion that at the international level there is no uniform concept of “state of emergency” / “emergency situation” and there is no established procedure for taking general measures in connection with the emergence of a cross-border threat to human health. As a result, States act on the basis of an assessment of the situation.
within their territory, relying on a legal framework that includes international legal acts regulating issues arising from emergency situations, constitutional and other provisions.

9. The emergency responses in the legal systems of the States analyzed in this Report, including France, Germany, Italy, Spain, Sweden, the United Kingdom, the United States, China, and the Russian Federation, have both common features and differences.

**Legal regimes introduced in the States to protect the life and health of the population**

10. The legislation of all examined States contains provisions that allow them to respond to emergencies in general by introducing special regimes (for example, the regimes of “exceptional circumstances” and “state of siege” in France [paras. 7–14 of Annex 3 to the Analytical Report], “state of emergency” in Germany [paras. 61–62 of Annex 3 to the Analytical Report], “state of alarm”, “state of emergency” and “state of siege” in Spain [paras. 168–176 of Annex 3 to the Analytical Report], etc.). Often, such provisions are contained in the constitutions of States, except for Italy [paras. 118–122 of Annex 3 to the Analytical Report], Sweden [paras. 224–231 of Annex 3 to the Analytical Report], and the United Kingdom [para. 282 of Annex 3 to the Analytical Report], and are detailed in special legislation.


12. As a result, in these States, the COVID-19 pandemic either did not require changes to the existing legislation (as in China [para. 427 of Annex 3 to the Analytical Report]) or required minor changes and the adoption of special acts clarifying the regulation both for the period of duration of the COVID-19 pandemic and for the purposes of a rapid response to similar emergencies in the future (Germany — both at the federal level and in individual states [paras. 69–85 of Annex 3 to the Analytical Report], Spain [paras. 185–186 of Annex 3 to the Analytical Report], Sweden [paras. 248–250 Annex 3 to the Analytical Report], the United Kingdom [paras. 297–314 of Annex 3 to the Analytical Report], the United States [para. 364 of Annex 3 to the Analytical Report]).

13. In the absence of special regulation of an emergency due to the spread of infectious diseases, Italy was forced to adopt a significant number of new acts regulating relations during the COVID-19 pandemic [paras. 133–139 of Annex 3 to the Analytical Report]. France, in response to the pandemic, adopted the law that established a new special regime for the occurrence of a threat to public health — a state of health emergency [paras. 21–28 of Annex 3 to the Analytical Report].

**Centralization vs. decentralization: delineating the competence of federal and regional/national and local authorities when introducing legal regimes to protect the life and health of the population**

14. The approach to delineating the competence of authorities when introducing legal regimes to protect the life and health of the population is largely determined by the form of the state structure — a federal or unitary State — or other features of the state structure (as in the case of Great Britain, which has a quasi-unitary structure, since it contains the following autonomous subjects: England, Wales, Scotland, and Northern Ireland).

15. The centralized approach was taken, in particular, in France [para. 30 of Annex 3 to the Analytical Report], Italy [paras. 121, 131 of Annex 3 to the Analytical Report], and China [paras. 411–412 of Annex 3 to the Analytical Report]. The decentralized one was adopted in Germany [paras. 70, 86 of Annex 3 to...

16. At the same time, during the initial reaction to the COVID-19 pandemic, the centralization of power was observed in Spain’s usually decentralized system. In particular, the “state of alarm” introduced in Spain changed the distribution of powers between central and regional authorities: all decisions were centralized at the national level (para. 186 of Annex 3 to the Analytical Report).

17. As the pandemic progressed, the trend of transition from centralization to decentralization of power became more evident in France (paras. 21–26 of Annex 4 to the Analytical Report), Italy (paras. 122–126 of Annex 4 to the Analytical Report), Spain (paras. 186–189 of Annex 4 to the Analytical Report), and China (para. 411 of Annex 4 to the Analytical Report).

**Containment measures to counteract the effects of COVID-19**

18. The introduction of certain legal regimes to protect the life and health of the population often entails the restriction of certain rights and freedoms. The most common containment measures against the population were:

- the quarantine, as a temporary isolation of people infected or suspected of having contracting an infectious disease;
- the restriction or prohibition of movement;
- the restriction or prohibition of public gatherings;
- the mandatory wearing of masks and use of other personal protective equipment;
- social distancing requirement.

19. Some States developed apps to track the location of people infected with COVID-19, as well as contacts with those infected. Such apps in the reviewed foreign States are used on a voluntary basis (France (para. 18 of Annex 4 to the Analytical Report), Italy (paras. 160–161 of Annex 3 to the Analytical Report), Spain (para. 195 of Annex 3 to the Analytical Report), Germany (para. 106 of Annex 3 to the Analytical Report), the United States (para. 392 of Annex 3 to the Analytical Report)).

20. Containment measures were also taken with regard to the industrial and non-productive sectors of the economy, except for Sweden (para. 257 of Annex 3 to the Analytical Report).

21. Most of the containment measures were related to the non-productive sector. For example, cultural, sports, and entertainment venues such as bars, theaters, cinemas, museums, fairs, exhibitions, libraries, swimming pools, and other places open to the public were closed. In some States, the exception was made for the enterprises that provided services or sold essential goods (France (para. 38 of Annex 3 to the Analytical Report), the United Kingdom (paras. 327–328 of Annex 3 to the Analytical Report)).

22. The industrial sector was largely unaffected by the restrictions, since this industry falls under the concept of “sector particularly necessary to the safety of the nation and to the continuity of the economic and social life” (France (para. 37 of Annex 3 to the Analytical Report), the relevant enterprises are classified as “critical infrastructure” (the United States (paras. 375–376 of Annex 3 to the Analytical Report)) or included in the exclusion lists, for example, enterprises that produce, transport, and sell medical protective equipment, sterilizers, medicines, or vital household supplies (China (para. 435 of Annex 3 to the Analytical Report)).
23. In the field of transport, most States imposed restrictions on entry into their territory, including the entry of foreign citizens from China and other States and regions with a high level of COVID-19 infections. Besides, Italy provided for the suspension of cargo and passenger services by land, rail, inland water, and public transport, including irregular one, with the exception of transportation of essential and perishable goods (para. 142 of Annex 3 to the Analytical Report). Similar measures were introduced in Spain (para. 188 of Annex 3 to the Analytical Report). Some states in the United States also imposed restrictions on the movement of people within the country, prescribing a mandatory 14-day quarantine (para. 371 of Annex 3 to the Analytical Report).

24. Over time, these restrictions were relaxed and adapted to the epidemiological situation in the States. At the same time, persons entering a State are required to provide a negative PCR test for coronavirus (France (para. 13 of Annex 4 to the Analytical Report), Germany (para. 77 of Annex 4 to the Analytical Report), Italy (para. 141 of Annex 4 to the Analytical Report), Spain (para. 192 of Annex 4 to the Analytical Report), Sweden (paras. 297–298 of Annex 4 to the Analytical Report), the United Kingdom (para. 341 of Annex 4 to the Analytical Report), the United States (para. 368 of Annex 4 to the Analytical Report), China (para. 407 of Annex 4 to the Analytical Report)).

25. In the health sector, the measures were generally aimed at providing national health systems with the necessary resources to counter the COVID-19 pandemic. Following the development of vaccines against COVID-19, a number of States focused on vaccination (France (para. 17 of Annex 4 to the Analytical Report), Germany (para. 80 of Annex 4 to the Analytical Report), Italy (paras. 117–121 of Annex 4 to the Analytical Report), the United States (paras. 359–360 of Annex 4 to the Analytical Report)).

26. In the field of education, educational institutions were temporarily closed and the distance learning format was implemented. As the spread of COVID-19 decreased, States began to resume classes in educational institutions, while maintaining the possibility of conducting classes remotely (Germany (para. 82 of Annex 4 to the Analytical Report), Spain (paras. 207–209 of Annex 4 to the Analytical Report), the United Kingdom (para. 334 of Annex 4 to the Analytical Report), the United States (para. 369 of Annex 4 to the Analytical Report)).

27. Non-compliance with containment measures is subject to liability, including criminal one (France (paras. 39, 44 of Annex 3 to the Analytical Report), Germany (paras. 82, 100–101 of Annex 3 to the Analytical Report), Italy (para. 152 of Annex 3 to the Analytical Report), Spain (paras. 211–214 of Annex 4 to the Analytical Report), Sweden (para. 288 of Annex 4 to the Analytical Report), the United Kingdom (para. 330 of Annex 3 to the Analytical Report), China (para. 434 of Annex 3 to the Analytical Report)).

Support measures to mitigate the impact of the COVID-19 pandemic

28. All examined States have adopted support measures for the industrial and non-productive sectors, such as:

- government loans, emergency financial assistance in the form of subsidies for small businesses and self-employed, as well as guarantees and other means of securing bank loans (Germany (paras. 107–111 of Annex 3 to the Analytical Report));

- suspension of the liberalization of foreign direct investment regime in certain strategic sectors (critical infrastructure; critical technologies and dual-use goods; sectors with access to confidential information; mass media) (Spain (para. 204 of Annex 3 to the Analytical Report));

- concessional loans to SMEs, sometimes in certain sectors of the economy (Spain (para. 204 of Annex 3 to the Analytical Report), the United Kingdom (para. 343 of Annex 3 to the Analytical Report), the United States (para. 389 of Annex 3 to the Analytical Report), China (para. 443 of Annex 3 to the Analytical Report));
• funding of research and development of vaccines and treatment, public health financing, provision of medicines, small business loans, and assistance in the global effort to combat COVID-19 (the United States (para. 389 of Annex 3 to the Analytical Report)).

29. In most jurisdictions, foreign companies or companies with foreign investment could also apply for support measures, provided that they are tax residents of the State (France (para. 49 of Annex 3 to the Analytical Report)), have a registered head office of the company in the relevant State (Germany (para. 108 of Annex 3 to the Analytical Report)), are registered and pay taxes in the State (Italy (para. 158 of Annex 3 to the Analytical Report), Sweden (para. 266 of Annex 3 to the Analytical Report), the United States (para. 389 of Annex 3 to the Analytical Report)). In Shanghai (China (para. 446 of Annex 3 to the Analytical Report)), the national regime for providing support measures applies, for example, to foreign enterprises in the industrial sector, as well as companies with foreign investment.

30. Support measures for the population included:

• unemployment benefits (France (para. 54 of Annex 3 to the Analytical Report), the United States (para. 390 of Annex 3 to the Analytical Report)) and other employee support due to changed working conditions (Germany (para. 92 of Annex 4 to the Analytical Report), Italy (para. 162 of Annex 4 to the Analytical Report), Spain (para. 209 of Annex 3 to the Analytical Report), the United Kingdom (para. 345 of Annex 3 to the Analytical Report), the United States (para. 390 of Annex 3 to the Analytical Report), China (para. 453 of Annex 3 to the Analytical Report));

• child benefits (Germany (paras. 112–113 of Annex 3 to the Analytical Report), Sweden (para. 273 of Annex 3 to the Analytical Report));

• lump sum payments (France (para. 54 of Annex 3 to the Analytical Report), Italy (para. 163 of Annex 4 to the Analytical Report), the United States (para. 391 of Annex 3 to the Analytical Report));

• loans to self-employed (Spain (para. 209 of Annex 3 to the Analytical Report));

• funding free coronavirus testing (the United States (para. 390 of Annex 3 to the Analytical Report)) and reducing the financial costs of treatment (China (para. 451 of Annex 3 to the Analytical Report));

• financial support for students (Germany (para. 91 of Annex 4 to the Analytical Report));

• reducing housing rents, credit support incentives and deferred interest payments, tax deferrals, and reduced social security payments (China (para. 453 of Annex 3 to the Analytical Report)).

31. The introduction and extension of containment measures raised questions concerning possible violations of various human rights and freedoms and, as a result, led to their judicial challenge.

32. The courts of a number of States have recognized the introduction of such restrictions as a legitimate exercise of power, as well as proportional and necessary for the protection of public health (France (paras. 36–44 of Annex 4 to the Analytical Report), Germany (paras. 95–100 of Annex 4 to the Analytical Report), Italy (para. 167 of Annex 4 to the Analytical Report), Spain (paras. 246–247, 249, 256, 258 of Annex 4 to the Analytical Report), the United Kingdom (paras. 346–348 of Annex 4 to the Analytical Report), the United States (paras. 393, 397 of Annex 4 to the Analytical Report)). At the same time, the courts of some States have faced the need to determine the powers of local authorities in the field

33. In a number of cases, the measures were declared illegal due to, for example, violations of the right to freedom of assembly (Spain [para. 259 of Annex 4 to the Analytical Report]), the right to freedom of religion (France [para. 52 of Annex 4 to the Analytical Report]), the procedure for introducing them (the United States [para. 390 of Annex 4 to the Analytical Report]), Spain [para. 261 of Annex 4 to the Analytical Report]). Besides, since the start of the mass vaccination process, cases involving the issue of access to COVID-19 vaccines by certain groups of population have begun to appear in the courts (France [paras. 60–61 of Annex 4 to the Analytical Report], Spain [paras. 276–277 of Annex 4 to the Analytical Report]).

**The Russian Federation’s response to the COVID-19 pandemic**

34. As in other examined States, the Russian Federation provides for the possibility of introducing a special legal regime due to the occurrence of emergency situations — a ”state of emergency” — to ensure the safety of citizens and protect the constitutional system both on the entire territory of the whole country and its parts [paras. 460–462 of Annex 3 to the Analytical Report].

35. The regulation of the relevant issues is detailed in the federal legislation, including in the special legislation on the sanitary and epidemiological welfare of the population. Depending on the nature of the emergency situation, it is envisaged that the Government of the Russian Federation can exercise its powers to impose containment measures (quarantine) on the entire territory of the State or, if there are proposals, prescriptions of the chief state medical officers and their deputies, on the territories of certain subjects of the Russian Federation [paras. 463–474 of Annex 3 to the Analytical Report]. Thus, as in other federal States examined in the Report, the approach to combating COVID-19 in the Russian Federation was decentralized.

36. During the COVID-19 pandemic, a ”state of emergency” was not introduced. However, based on special legislation, including legislation on the sanitary and epidemiological welfare of the population, special measures to combat the spread of a new coronavirus infection on the state territory were taken by the Government of the Russian Federation. At the same time, in the territories of the analyzed subjects of the Russian Federation, the acts of the highest officials of the subjects of the Russian Federation, with reference to the current special legislation, introduced a ”high alert mode” and regional measures were taken [paras. 475–477 of Annex 3 to the Analytical Report].

37. The COVID-19 pandemic required amendments to the legislation in force aimed at clarifying the concepts and powers of federal and regional authorities in order to respond both to the COVID-19 pandemic itself and to the possible spread of diseases that pose a danger to people’s health in the future.

38. Thus, the concept of ”emergency situation” has been clarified so that it now includes ”the situation resulting from the spread of a disease that poses a danger to others” (including COVID-19). In this regard, the competence of the management bodies of the unified universal state system for the prevention and elimination of emergencies applies to the situation that has been developed due to the spread of COVID-19. In accordance with the specified powers of the Government of the Russian Federation, in case of emergencies and (or) a threat of their occurrence, it has the right to:

- make a decision on the exercise of the powers as the coordinating body of the unified state system for the prevention and elimination of emergencies;
make a decision on the introduction of a high alert mode or an emergency situation on the entire territory of the Russian Federation or its part;

establish mandatory rules of conduct for citizens and organizations when introducing a high alert mode or an emergency situation.

39. The state authorities of the subjects of the Russian Federation, in particular, were empowered to establish mandatory rules of conduct for citizens and organizations when introducing a high alert mode or an emergency situation. Besides, the state authorities were entailed to establish additional mandatory rules of conduct when a high alert mode or a state of emergency was declared by the Government of the Russian Federation taking into account the specifics of an emergency situation on the territory of a subject of the Russian Federation or the threat of its occurrence [paras. 478–486 of Annex 3 to the Analytical Report].

40. As in the other States considered, the Russian Federation has adopted a large number of containment and support measures.

41. At the federal level, containment measures were taken in the field of transport, public health, and education [paras. 489–496 of Annex 3 to the Analytical Report, paras. 429–438 of Annex 4 to the Analytical Report].

42. Depending on the sanitary and epidemiological situation and the specificities of the spread of COVID-19 in a particular subject, containment measures with respect to the industrial and non-productive sectors were also taken at the regional level [paras. 497–498 of Annex 3 to the Analytical Report, para. 442 of Annex 4 to the Analytical Report, Table 5, Table 6, Table 7, Table 8].

43. Containment measures regarding the population were taken not at the federal, but the regional level and, as a result, differed depending on the subject of the Russian Federation and on the sanitary and epidemiological situation within it [paras. 502–506 of Annex 3 to the Analytical Reference, para. 443 of Annex 4 to the Analytical Reference, Table 5, Table 6, Table 7, Table 8].

44. Administrative liability is established for violations of containment measures [paras. 499–501, 504 of Annex 3 to the Analytical Report, Table 5, Table 6], which corresponds to the general trend of enshrining the rules on liability for relevant violations in the legislation of the other examined States.

45. In general, the content and objectives of the containment measures imposed on businesses and the population were largely similar to those taken in other States. However, for example, the use of an app for tracking the location of people, in contrast to the other examined States [para. 19 of the Analytical Report], was mandatory in certain subjects of the Russian Federation.

46. Various measures to support business and the population were taken at both the federal and regional levels [paras. 507–511 of Annex 3 to the Analytical Report, paras. 444–446 of Annex 4 to the Analytical Report, Table 5, Table 6, Table 7, Table 8] and are in many ways similar in nature to measures taken in other States.

47. The containment measures challenged in the courts of the Russian Federation were found to be necessary and proportionate to the purpose of protecting the life and health of citizens [paras. 447–456 of Annex 4 to the Analytical Report]. Besides, the Supreme Court of the Russian Federation provided some explanations on certain issues pertaining to judicial practice related to the application of legislation and measures to counter the spread of COVID-19 on the territory of the Russian Federation [para. 457 of Annex 4 to the Analytical Report].
ANNEX 1. INTERNATIONAL LAW AND THE COVID-19 PANDEMIC

1. International Legal Regulation of Emergencies in the Health Sector

1.1. Definition of an Emergency Situation / a State of Emergency

1. Natural and man-made emergencies, such as droughts, floods, epidemics, and industrial accidents, may have a cross-border nature. Despite this, there are currently no tools at the universal level that regulate the general response to them, both on the part of individual States and the international community as a whole. In addition, there is no generally accepted concept that defines such situations. International treaties use, among other, such notions as “emergency”, “state of emergency”, “disaster”.

2. At the same time, a number of international human rights treaties contain the wording “public emergency” which determines a possibility for States to derogate from their obligations. For instance, the ICCPR uses the concept of “public emergency” which threatens the life of the nation. This may include, for example, armed conflicts of an international or non-international character, natural disasters, mass riots accompanied by violence, or a major industrial accident. The ECHR and the ESC, in turn, refer to cases of “war or other public emergency threatening the life of the nation.”

3. Soft law instruments use the concepts of “public emergency” and “disaster”. According to the Paris Standards, the term “public emergency” means “an exceptional situation of crisis or public danger, actual or imminent, which affects the whole population or the whole population of the area to which the declaration applies and constitutes a threat to the organized life of the community of which the state is composed”. The Draft Articles on the Protection of Persons in the Event of Disasters, defining the concept of “disaster”, refer to “a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society”.

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1 Information in Annex 1 is relevant as of November 2020.
4. However, none of the above-mentioned international instruments is intended to regulate situations where there is a threat to public health. The legal regulation of this area is assigned to the IHR 2005 that use the concept of “public health emergency of international concern”.

5. The COVID-19 pandemic may fall under any of the terms “public emergency” or “disaster” mentioned above. An extraordinary event in its nature, the pandemic has put the entire world’s population at risk. As of November 2020, according to the official WHO statistics, more than 1.2 million people have died from a new coronavirus infection. This fact indicates a global emergency that requires an urgent response.

1.2. The International Health Regulations 2005 as the Main Tool for Ensuring Health Safety Through the Prevention of Public Health Emergencies

6. The IHR 2005, as the main public health treaty within the WHO, aim to prevent and control the international spread of diseases through response measures. The Rules are legally binding on the WHO Member States, as well as new Member States, if they have not rejected them, made reservations or amendments to them within 18 months from the date of notification by the Director-General of their adoption.

7. The IHR 2005 provide for the concept of “public health emergency of international concern” which means an extraordinary event and is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response. The Rules establish a step-by-step procedure for determining its existence and taking appropriate response measures.

8. A State Party to the IHR 2005 shall provide to the WHO all relevant public health information if it has evidence of an unexpected or unusual public health event within its territory, irrespective of origin or source, which may constitute a PHEIC.

9. If, after an assessment of events occurred on the territory of the State in accordance with the decision instrument in Annex II of the Rules, it was concluded that they may constitute a PHEIC, the State shall notify the WHO of those events, as well as of any health measure implemented in response to them. The State is given 24 hours to provide this information from the moment the situation was assessed.

8 To date, 196 States are parties to the IHR. URL: https://www.who.int/ihr/legal_issues/states_parties/en/.
11 International Health Regulations. Article 1.
12 Ibid. Article 7.
13 Ibid. Article 6.
14 Ibid.
10. In addition to information from the State in whose territory the relevant events take place, the WHO may take into account reports from sources other than notifications or consultations and shall assess these reports according to established epidemiological principles and then communicate information on the event to the State Party to obtain its verification. If the verification of such information confirms the existence of a PHEIC, the WHO shall offer to collaborate with the State Party concerned in assessing the potential for international disease spread, possible interference with international traffic, and the adequacy of control measures.

11. Then the WHO shall send to all States Parties and, as appropriate, to relevant intergovernmental organizations, as soon as possible and by the most efficient means available, in confidence, such public health information which it has received and which is necessary to enable States Parties to respond to a public health risk.

12. The Director-General of the WHO determines whether an event occurring on the territory of a State is a PHEIC. In particular, if after the assessment of the information provided to them, they and the State Party agree upon the determination of the event as a PHEIC, the Director-General shall seek the views of the Emergency Committee established under Article 48 of the IHR 2005 on appropriate temporary recommendations. After receiving the views of the Emergency Committee, the Director-General makes a final determination on whether or not there are grounds for declaring a PHEIC.

13. The Director-General shall communicate to States Parties the determination and the termination of a PHEIC, any health measure taken by the State Party concerned, any temporary recommendation, and the modification, extension, and termination of such recommendations, together with the views of the Emergency Committee. When a PHEIC is declared, the WHO, at the request of a State Party, shall collaborate in the response to public health risks and other events by providing technical guidance and assistance and by assessing the effectiveness of the control measures in place, including the mobilization of international teams of experts for on-site assistance, when necessary.

1.3. WHO Recommendations on Appropriate Health Measures to Combat the COVID-19 Pandemic

14. If a PHEIC is declared, the WHO Director-General issues temporary recommendations to States Parties. Those recommendations do not have a binding character and are provided “for application on a time-limited, risk-specific basis, in response to a public health emergency of international concern, so as to prevent or reduce the international spread of disease and minimize interference with international traffic”.

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15 Ibid. Articles 9–10.
16 Ibid.
17 Ibid. Article 11.
18 Ibid. Article 12.
19 Ibid. Article 49.
20 Ibid.
21 Ibid. Article 13.
22 Ibid. Articles 15, 49.
23 Ibid. Article 1.
15. Temporary recommendations shall automatically expire three months after their issuance. They may be modified or extended for additional periods of up to three months. Temporary recommendations may not continue beyond the second WHA after the determination of the PHEIC to which they relate.24

16. Besides, the IHR 2005 provide for the possibility of making standing non-binding recommendations on appropriate health measures for routine or periodic application in order to prevent or reduce the international spread of disease.25 In the context of the spread of COVID-19, the WHO Director-General has been publishing only temporary recommendations covering a wide range of issues related tocountering the coronavirus outbreak.

17. The first WHO recommendations for health measures related to countering the outbreak of the new coronavirus infection were published on January 10–12, 2020.26 According to them, international travelers were advised to take the general precautions to reduce the overall risk of acute respiratory infections by:

- avoiding close contact with people suffering from acute respiratory infections;
- frequent handwashing, especially after direct contact with ill people or their environment;
- avoiding close contact with live or dead farm or wild animals;
- travelers with symptoms of acute respiratory infection should practice cough etiquette (maintain distance, cover coughs and sneezes with disposable tissues or clothing, and wash hands).27

18. Additional temporary recommendations were also published by the WHO prior to the declaration of a PHEIC on January 30, 2020.28

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24 Ibid. Article 15. The first part of the WHA’s session, convened in a virtual format in light of the ongoing COVID-19 pandemic, was held on May 18–19, 2020, on a reduced agenda. The resumed session took place also virtually from 9 to 14 November 2020. Recommendations adopted by the WHO and aimed at combating COVID-19 can be extended and, accordingly, are valid only until the second session of the WHA, which is expected to be held in May 2021, see Seventy-third World Health Assembly. URL: https://www.who.int/about/governance/world-health-assembly/seventy-third-world-health-assembly; see also Seventy-third Session of the World Health Assembly. Report of the Committee B. 11 November 2020. P. 4. Para. 3. URL: https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_44(draft)-en.pdf.

25 International Health Regulations. Articles 1, 16, 53.


19. After the declaration of the PHEIC, the WHO published the Operational Planning Guidelines to Support Country Preparedness and Response which specified a number of technical recommendations issued on January 10–12, 2020.29

20. On March 7, 2020, the WHO released a consolidated set of then-existing recommendations (an interim guidance) covering strategic and operational preparedness and response measures for four different transmission scenarios for COVID-19:

- no reported cases;
- sporadic cases;
- clusters of cases;
- community transmission of cases.30

21. According to that interim guidance, public health measures such as interventions related to individual protection, social distancing, and travels can slow the transmission and spread of the disease. In this regard, the WHO recommended that the following measures should be applied in all States in any situation:

- hand hygiene;
- respiratory etiquette;
- wearing a mask by persons with symptoms of the infection;
- isolation and treatment of patients with symptoms of the infection;
- monitoring contacts with confirmed cases;
- monitoring people arriving from other countries;
- disinfection of street spaces and premises.31

22. Besides, because of the global situation, the WHO recommended adopting the following measures:

- a ban on mass public gatherings;
- closure of schools and kindergartens;
- closure of educational institutions;

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31 Ibid.
• cancellation of public transport services;
• closure of workplaces;
• quarantine of persons with no symptoms of the disease (asymptomatic contacts) and/or isolation of infected persons.\(^{32}\)

23. On May 10, 2020, following up on previous recommendations for investigating COVID-19 cases and clusters,\(^{33}\) the WHO issued the interim recommendations for contact tracing.\(^{34}\) On June 5, 2020, the WHO published updated recommendations for the use of masks.\(^{35}\)

24. Thus, based on the above, it can be concluded that in the context of the spread of the new coronavirus infection in 2020, the WHO’s recommendations are useful legal tools which, as the practice has shown, States are guided by when taking health measures in the fight against COVID-19 (Annex 3 to the Analytical Report).

2. International Law and Measures Taken by States in the Fight Against Emergencies

25. International law does not restrict the ability of a State to independently decide on measures to respond to emergencies that occur in the State or affect the entire world community. At the same time, such measures must comply with certain international standards, including:

• the International Health Regulations of 2005;
• the Universal Declaration of Human Rights of 1948;
• the International Covenant on Civil and Political Rights of 1996;
• the International Covenant on Economic, Social and Cultural Rights of 1996;
• the European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950;
• the European Social Charter of 1961;

\(^{32}\) Ibid.


2.1. International Health Regulations of 2005

26. The IHR 2005 recognize the sovereign right of States to legislate and to implement legislation in pursuance of their health policies. However, this right of States shall be exercised with full respect for the dignity, human rights and fundamental freedoms of persons, as well as taking into account the provisions of the UN Charter and the WHO Charter.\(^{36}\)

27. Part V of the IHR 2005 sets out a number of health measures that can be used by a State for public health purposes. In particular, a State Party may require “information concerning the traveler’s itinerary to ascertain if there was any travel in or near an affected area or other possible contacts with infection or contamination\(^{37}\) prior to arrival, as well as review of the traveler’s health documents.”\(^{38}\) With regard to a suspect or affected traveler, States Parties may apply additional health measures, in particular, the least intrusive and invasive medical examination that would achieve the public health objective of preventing the international spread of disease.\(^{39}\)

28. No medical examination, vaccination, prophylaxis, or health measure under the Regulations shall be carried out on travelers without their prior express informed consent or that of their parents or guardians, except as provided in paragraph 2 of Article 31 of the IHR 2005.\(^{40}\) Such persons shall be informed of any risk associated with vaccination, prophylaxis, or refusal of them.\(^{41}\)

29. The Regulations determine that when applying health measures to travelers, States shall treat them with respect for their dignity, human rights, and fundamental freedoms and minimize any discomfort or distress associated with such measures, including by:

- treating all travelers with courtesy and respect;
- taking into consideration the gender, socio-cultural, ethnic, or religious concerns of travelers; and
- providing or arranging for adequate food and water, appropriate accommodation and clothing, protection for baggage and other possessions, appropriate medical treatment, means of necessary communication if possible, in a language that they can understand, and other appropriate assistance for travelers who are quarantined, isolated, or subject to medical examinations, or other procedures for public health purposes.\(^{42}\)

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\(^{36}\) International Health Regulations. Article 3.Italicized by the ICLRC.

\(^{37}\) Contamination is the process of making something dirty or poisonous, or the state of containing unwanted or dangerous substances. See Cambridge Dictionary. URL: https://dictionary.cambridge.org/dictionary/english/contamination.

\(^{38}\) International Health Regulations. Article 23.

\(^{39}\) Ibid. Italicized by the ICLRC.

\(^{40}\) Ibid. Italicized by the ICLRC. Article 31 of the IHR 2005 refers to the right of a State Party to require a person to undergo a medical examination, vaccination, or other preventive measures, for example, when it is necessary to determine whether a public health risk exists or as a condition of entry for any travelers seeking temporary or permanent residence. If a traveler fails to consent to any such measure, the State Party concerned may deny entry to that traveler.

\(^{41}\) Ibid.

\(^{42}\) Ibid. Article 32.
30. Besides, States Parties shall take all practicable measures consistent with the IHR 2005 to ensure that conveyance operators:

- comply with the health measures recommended by the WHO and adopted by the State Party;
- inform travelers of the health measures recommended by the WHO and adopted by the State Party for application on board;
- permanently keep conveyances for which they are responsible free of sources of infection or contamination, including vectors and reservoirs. 43

31. The IHR 2005 prohibit the application of health measures to transit ships and aircraft, as well as civilian lorries, trains, and coaches in transit. 44 Goods in transit, with the exception of live animals, shall not be subject to health measures or detained for public health purposes. 45

32. The Regulations establish certain requirements for affected conveyances, as well as ships and aircrafts at points of entry. 46 In addition, they impose a number of requirements for international traffic containers and their loading areas. 47

33. In addition to the measures listed above, as well as those specified in the WHO interim recommendations, the IHR 2005 allow States to take additional health measures in accordance with their relevant national law and obligations under international law, in response to specific public health risks or PHEIC. Such health measures shall achieve the same or greater level of health protection than the WHO recommendations and shall not contradict the Regulations. 48

34. Article 43 of the Regulations limits the scope of health measures to those commensurate with the existing risks to human health, based on scientific principles, available scientific evidence of a risk to human health, any available specific guidance or advice from the WHO. 49

35. If a State has taken measures that significantly interfere with international traffic, it shall inform the WHO, within 48 hours of implementation, of such measures and their health rationale along with the relevant scientific information. 50

36. Thus, the IHR 2005, while outlining the general framework of health measures that can be applied by States in the event of a PHEIC, also provide them with a certain level of discretion to take additional

43 Ibid. Article 24.
44 Ibid. Articles 25, 26.
46 Ibid. Articles 27, 28.
47 Ibid. Article 34.
48 Ibid. Article 43.
49 Ibid.
50 Ibid.
measures. However, all such measures shall be initiated and completed without delay and applied in a transparent and non-discriminatory manner.\footnote{Ibid. Article 42.}

### 2.2. Universal Declaration of Human Rights of 1948


39. Article 53 of the Vienna Convention on the Law of Treaties of 1969 provides that:

\begin{quote}
“a peremptory norm of general international law is a norm accepted and recognized by the international community of States as a whole as a norm \textit{from which no derogation is permitted} and which can be modified only by a subsequent norm of general international law having the same character.”\footnote{Vienna Convention on the Law of Treaties. 1155 U.N.T.S. 311. May 23, 1969. Article 53. Italicized by the ICLRC.}
\end{quote}

40. Thus, when taking restrictive measures in the fight against COVID-19, States should take into account that certain human rights listed in the Declaration are absolute and are not subject to any derogations or restrictions.

### 2.3. International Covenant on Civil and Political Rights of 1996

41. Unlike the UDHR, the ICCPR is binding on States Parties to the treaty and explicitly provides for the possibility of declaring a state of emergency. At the same time, it is important to note that the ICCPR establishes a restriction on the adoption of measures derogating from human rights in a time of public
In particular, a State Party cannot derogate from its obligations under the following Articles of the ICCPR:

- Article 6 (the right to life);
- Article 7 (the prohibition of torture or cruel, inhuman or degrading treatment or punishment, as well as medical or scientific experimentation without free consent);
- paragraphs 1 and 2 of Article 8 (the prohibition of slavery, slavery-trade, and servitude);
- Article 11 (the prohibition of deprivation of liberty on the ground of inability to fulfill a contractual obligation);
- Article 15 (the principle of legality in the field of criminal law);
- Article 16 (the right to recognition as a person before the law); and
- Article 18 (the freedom of thought, conscience, and religion).

Besides, two conditions must be met before a State can derogate from its obligations under other Articles of the ICCPR.

First, the situation in a State must amount to a public emergency that threatens the life of the nation. However, in this case, States must be able to justify not only that such a situation constitutes a threat to the life of the nation, but also that all their measures derogating from the ICCPR are strictly required by the exigencies of the situation. It is noted that “a threat to the life of the nation is one that affects the whole of the population and either the whole or part of the territory of the State, and threatens the physical integrity of the population, the political independence or the territorial integrity of the State or the existence or basic functioning of institutions indispensable to ensure and protect the rights recognized in the Covenant.”

Second, a State Party must officially proclaim a state of emergency. In particular, a State to the ICCPR availing itself of the right of derogation shall immediately inform the other States Parties to the Covenant, through the intermediary of the UN Secretary-General, of the provisions from which it has derogated and of the reasons by which it was actuated. HRC clarified that “the notification should include full information about the measures taken and a clear explanation of the reasons for them, with full documentation attached regarding their law.” It is also stated that “additional notifications are required if a State Party subsequently takes further measures under Article 4, for instance by extending the duration

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59 International Covenant on Civil and Political Rights. Article 4. To date, 173 States are parties to this treaty. URL: https://www.ohchr.org/Documents/HRBodies/CCPR/DHCHR_Map_ICCPR.pdf.
60 Ibid. Article 4(2). As the HRC has noted, some of these rights (such as those provided for in Articles 6 and 7) are of the peremptory nature. See Human Rights Committee. General Comment No. 29. Para. 11.
61 Ibid. Para. 5.
63 International Covenant on Civil and Political Rights. Article 4(3).
64 General Comment No. 29. Para. 17; see also Siracusa Principles. Paras. 44–46.
of a state of emergency. The requirement of immediate notification applies equally in relation to the termination of derogation.”

45. The ICCPR also sets certain requirements for measures taken by States to derogate from their human rights obligations. For instance, the measures taken should not involve discrimination solely on the ground of race, color, sex, language, religion, or social origin. Also, such measures should not be inconsistent with States’ other obligations under international law and must be of an exceptional and temporary nature.

46. In addition, the ICCPR, along with a provision about derogations from human rights obligations, provides for legal limitations of human rights that can be implemented outside the context of public emergency. The limitation of rights must be distinguished from the derogation from human rights obligations. The imposition of such limitations is based on particular rules of the ICCPR setting the following requirements for the introduction of such limitations:

- the limitations shall be prescribed by national law of general application. Moreover, “legal rules limiting the exercise of human rights shall be clear and accessible to everyone;”
- the limitations shall be necessary in a democratic society. In this sense, the State applying the limitations, “shall demonstrate that the limitations do not impair the democratic functioning of the society;”
- the limitations shall be imposed in the interests of national security or public safety, public order, the protection of public health or morals, or the protection of the rights and freedoms of others.

47. Within the framework of this Analytical Report, the last of the listed grounds — the protection of public health — is of particular interest.

48. It is noted that “public health may be invoked as a ground for limiting certain rights in order to allow a State to take measures dealing with a serious threat to the health of the population or individual members of the population. These measures must be specifically aimed at preventing disease or injury or

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65 General Comment No. 29. Para. 17.
66 International Covenant on Civil and Political Rights. Article 4(1); General Comment No. 29. Para. 8.
67 International Covenant on Civil and Political Rights. Article 4(1); Siracusa Principles. Paras. 66–68.
68 General Comment No. 29. Para. 2.
69 See, e.g., International Covenant on Civil and Political Rights. Articles 12, 18–19, 21–22.
70 Siracusa Principles. Paras. 15–18.
71 Ibid. Paras. 19–21.
72 For example, the UN Committee on Economic, Social and Cultural Rights pointed out that “the protection of public health is often cited by States as a basis for restricting human rights in the context of a person’s health status. However, many such restrictions are discriminatory, for example, when HIV status is used as the basis for differential treatment with regard to access to education, employment, health care, travel, social security, housing and asylum.” See Committee on Economic, Social and Cultural Rights. General Comment No. 20 – Non-discrimination in economic, social and cultural rights (Para. 2, Article 2 of the Covenant). E/C.12/GC/20. Para. 33.
providing care for the sick and injured.”

49. Therefore, Article 4 of the ICCPR and the provisions that allow limitations of certain rights are important for the system of protection of human rights enshrined in the ICCPR. On the one hand, they allow a State Party to unilaterally temporarily withdraw from a part of its obligations under the ICCPR in emergencies, which may include the COVID-19 pandemic, or to limit them, for example, in the interests of public health. On the other hand, the ICCPR provides for a special regime of guarantees both regarding the derogations or limitations and their material consequences.

2.4. International Covenant on Economic, Social and Cultural Rights of 1996

50. Like the ICCPR, the ICESCR is a treaty binding on States Parties. However, if, under the ICCPR, States undertake to “respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant,” in accordance with the ICESCR, States are obliged to “take steps, individually and through international assistance and co-operation, especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in the Covenant.” In other words, due to the possible limited resources for the realization of economic, social, and cultural rights in some States, the nature of obligations under the ICESCR is characterized by gradual implementation. This, in turn, may indicate a more flexible framework for States’ obligations.

51. In the context of the COVID-19 pandemic, particular attention should be paid to the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, as set out in the ICESCR, under which States have positive obligations, including to take necessary steps to prevent, treat, and control epidemic and other diseases.

52. Unlike the ICCPR, the ICESCR does not provide States with a possibility of derogation from their obligations. However, as in the ICCPR, States may impose limitations on the rights set forth in the ICESCR.

53. It is worth noting that while the ICCPR provides for limitations of individual rights, the provisions of Article 4 of the ICESCR point to the possibility of limitations of the rights in general. Although Article 4 does not explicitly specify the material conditions for setting limitations, an interpretation of the ICESCR

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73 Siracusa Principles. Para. 25.
75 See, e.g., ibid. Para. 1.
77 International Covenant on Civil and Political Rights. Article 2(1).
78 International Covenant on Economic, Social and Cultural Rights. Article 2(1).
81 Ibid. Article 4.
provisions suggests that such restrictions may be imposed both in peacetime and in situations of armed conflict.\textsuperscript{82}

54. The imposition of limitations under the ICESCR must be subject to a number of conditions. In addition to the identical requirement on the legality of limitations of the rights under the ICCPR, the ICESCR stipulates that such limitations must be compatible with the nature of the rights (without distorting their meaning and content) and promote the general welfare in a democratic society (be imposed in the public interest).\textsuperscript{83}

2.5. European Convention for the Protection of Human Rights and Fundamental Freedoms of 1950

55. The ECHR, like the ICCPR, contains a provision on the possibility of States to derogate from a number of human rights obligations. In particular, the ECHR establishes that:

"In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law." \textsuperscript{84}

56. As the ICCPR, the ECHR specifies a number of rights that cannot be derogated from:

- Article 2 (the right to life, except in respect of deaths resulting from lawful acts of war);
- Article 3 (the prohibition of torture);
- paragraph 1 of Article 4 (the prohibition of slavery);
- Article 7 (no punishment without law).\textsuperscript{85}

57. Similar to the requirements of the ICCPR, two conditions must be met before States Parties to the ECHR can derogate from their obligations under other Articles of the Convention.

58. First, there must be a war in a State or other public emergency threatening the life of the nation.\textsuperscript{86} Under such circumstances, the ECtHR understands "an exceptional situation of crisis or emergency which affects the whole population and constitutes a threat to the organized life of the community of which the State is composed." \textsuperscript{87} An emergency must be real or imminent. As the ECtHR pointed out, "the requirement


\textsuperscript{83} International Covenant on Economic, Social and Cultural Rights. Article 4.

\textsuperscript{84} Convention for the Protection of Human Rights and Fundamental Freedoms. Article 15(1).

\textsuperscript{85} Ibid. Article 15(2).

\textsuperscript{86} Ibid. Article 15(1).

of imminence cannot be interpreted so narrowly as to require a State to wait for disaster to strike before taking measures to deal with it."^88

59. Second, a State availing itself of the right of derogation shall keep the Secretary General of the Council of Europe fully informed of the measures which it has taken and the reasons therefor. It shall also inform the Secretary General when such measures have ceased to operate, and the provisions of the Convention are again being fully executed.^89

60. The ECHR sets out two requirements for measures taken by States in derogation from their human rights obligations.

61. First, derogation is allowed only to the extent that it is strictly required by the exigencies of the situation. Despite the broad discretion granted to States under Article 15(1) of the ECHR, States do not have unlimited power and their restrictions on rights can be accepted "only to the extent strictly required by the exigencies of the crisis."^90 In determining whether a State has gone beyond what is required by the exigencies of the situation, the ECtHR gives appropriate weight to such relevant factors as the nature of the rights affected by the derogation, the circumstances leading to, and the duration of, the emergency.\(^91\)

62. Second, measures taken by a State in derogation from its obligations under the ECHR should not be inconsistent with its other obligations under international law.\(^92\)

63. Besides, some provisions of the ECHR, as well as those of the ICCPR, provide for the possibility of limitation of certain rights \(^93\). Such limitations may be imposed if States comply with the following requirements:

- the limitations shall be prescribed by law;
- the limitations shall be necessary in a democratic society;
- the limitations shall be imposed in the interests of national security or public safety, for the prevention of disorder or crime, for the protection of health or morals, or the protection of the rights and freedoms of others.

64. These requirements are almost identical to those set out in the ICCPR and ICESCR. The ECtHR analyzes the fulfillment of each of these conditions in the context of the circumstances of each case.

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2.6. European Social Charter of 1961

65. Similar to the provisions of the ECHR, the ESC provides for the possibility for States Parties to derogate from their obligations:

“In time of war or other public emergency threatening the life of the nation any Contracting Party may take measures derogating from its obligations under this Charter to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.”

66. If a State decides to derogate from its obligations under the Charter, it shall, within a reasonable lapse of time, keep the Secretary General of the Council of Europe fully informed of the measures taken and of the reasons thereof, as well as when such measures have ceased to operate and the provisions of the Charter which it has accepted are again being fully executed.

67. Also, the rights established in the ESC may be limited. Those limitations shall be prescribed by law and are necessary in a democratic society for the protection of the rights and freedoms of others or for the protection of public interest, national security, public health, or morals.

68. Thus, the ESC framework, in which States Parties should act in the event of an emergency, such as the COVID-19 pandemic, generally reflects the provisions of the universal human rights treaties and the ECHR.

2.7. Soft Law Documents


69. The Paris Standards are not a binding document. They were adopted at the 61st Conference of the International Law Association to help ensure that States comply with Article 4 of the ICCPR, Article 15 of the ECHR, and Article 27 of the American Convention on Human Rights.

70. In the Paris Standards, the possibility of taking measures to derogate from the treaties (the ICCPR and the ECHR) depends on five conditions:

- every State shall comply with the principle of notification as may be prescribed by the particular treaty;
- such measures must be strictly proportionate to the exigencies of the situation;

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95 Ibid. Article F (2).
96 Ibid. Article G (1). Italicized by the ICLRC.
such measures must not be inconsistent with the other obligations of the State under international law;

• such measures must not involve any discrimination solely on the ground of race, color, sex, language, religion, nationality, or social origin; and

• the basic rights and freedoms guaranteed by international law shall remain non-derogable even during an emergency. 98

71. Currently, all these conditions are reflected in the ICCPR and the ECHR and are subject to mandatory implementation by the States Parties to these treaties.


72. The Draft Articles on the Protection of Persons in the Event of Disasters are also advisory in nature. Their purpose is to facilitate the adequate and effective response to disasters and reduction of the risk of disasters, so as to meet the essential needs of the persons concerned, with full respect for their rights. 99

73. According to the Draft Articles, “disaster” means:

“a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, mass displacement, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society.”100

74. As it was noted by the ILC, “the possibility of “great human suffering and distress” was included out of the recognition that many major disasters are accompanied by widespread loss of life or by great human suffering and distress, including those occasioned by non-fatal injuries, disease, or other health problems caused by the disaster.”101 Therefore, it is possible to consider applying the Draft Articles to situations such as the COVID-19 pandemic in terms of the global response and cooperation to protect people.102

75. The Draft Articles cover ratione materiae, first of all, the rights and obligations of States affected by a disaster in relation to persons on their territory or under their jurisdiction or control. Second, they also cover the rights and obligations of third States, intergovernmental organizations, non-governmental organizations, and other entities that are able to cooperate in disaster relief and disaster risk reduction.103

98 Ibid. Section B. Para. 2; see also Section C.
100 Ibid. Article 3[a]. Italicized by the ICLRC.
101 Ibid. P. 27. Para. 7. Italicized by the ICLRC.
The first type of obligation points to the need to respect and protect human dignity, as well as the human rights of persons affected by a disaster. Besides, it is noted that response to disasters shall take place in accordance with the principles of humanity, neutrality, and impartiality, and on the basis of non-discrimination while taking into account the needs of the particularly vulnerable. The Draft Articles on the Protection of Persons in the Event of Disasters underline that the affected State has the duty to ensure the protection of persons and provision of disaster relief assistance in its territory, or in territory under its jurisdiction or control.

The second type of obligation provides for the duty of States faced with a disaster to cooperate with the UN, with the components of the Red Cross and Red Crescent Movement, and with other assisting actors. Such cooperation in the response to disasters includes humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, scientific, medical, and technical resources.

Thus, the Draft Articles on the Protection of Persons in the Event of Disasters are mainly aimed at protecting persons from disasters by reducing the risk of their occurrence, as well as by cooperating in taking response measures.

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104 Ibid. Articles 4–5, 10.
105 Ibid. Article 6.
106 Ibid. Article 9.
107 Ibid. Article 7.
ANNEX 2. REGIONAL INTEGRATIONS AND THE COVID-19 PANDEMIC

1. Regulatory Framework and Mechanisms for Responding to Health Emergencies at the European Union Level

1.1. Regulation of Health Emergencies Within the European Union

1. The main legal document aimed, inter alia, at health protection within the EU is the Treaty on the Functioning of the EU. In accordance with Article 168, "a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities." 110

2. This Article also states that:

"Union action shall be directed towards improving public health, preventing physical and mental illness and diseases, and obviating sources of danger to physical and mental health. Such action shall cover the fight against the major health scourges, by promoting research into their causes, their transmission and their prevention, as well as health information and education, and monitoring, early warning of and combating serious cross-border threats to health." 111

3. The very concept of "serious cross-border threat to health" is enshrined in the EU Decision on Serious Cross-border Threats to Health of 2013. This term is defined as:

"a life-threatening or otherwise serious hazard to health of biological, chemical, environmental or unknown origin which spreads or entails a significant risk of spreading across the national borders of Member States, and which may necessitate coordination at Union level in order to ensure a high level of human health protection." 112

4. In situation, when such a threat:

- is unusual or unexpected for the given place and time, or causes or may cause significant morbidity or mortality in humans, or grows rapidly or may grow rapidly in scale, or exceeds or may exceed national response capacity; and
- affects or may affect more than one Member State; and

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109 Information in Annex 2 is relevant as of November 2020.


111 Ibid. Italicized by the ICLRC.

• requires or may require a coordinated response at Union level,

the European Commission (in particular, the Directorate-General for Health and Food Safety) should notify an alert in the Early Warning and Response System.\(^{113}\)

5. If a serious cross-border threat to health endangers public health at the Union level, and medical needs are unmet in relation to that threat, which means that no satisfactory method of diagnosis, prevention, or treatment is authorized in the Union, the European Commission may recognize a situation as a public health emergency.\(^{114}\) The recognition of an emergency is based on the conclusion of the Health Security Committee established within the European Commission. Further, the European Commission is required to inform the WHO Director-General of the recognition of the health situation as an emergency (paras. 11–1.3 of Annex 2 to the Analytical Report).\(^ {116}\)

6. As soon as any of the applicable conditions for the recognition of an emergency is no longer met, the European Commission shall terminate such recognition through implementing acts.\(^ {117}\)

1.2. Legal Framework for Measures Taken at the European Union Level

7. The above-mentioned Decision on Serious Cross-border Threats to Health defines the concept of "public health measure" which means:

"a decision or an action which is aimed at preventing, monitoring or controlling the spread of diseases or contamination, combating severe risks to public health or mitigating their impact on public health."\(^ {118}\)

8. In accordance with the Decision on Serious Cross-border Threats to Health, when a Member State intends to adopt public health measures to combat a serious cross-border threat to health, it shall, before adopting those measures, inform and consult the other Member States and the Commission on the nature, purpose, and scope of the measures, unless the need to protect public health is so urgent that the immediate adoption of the measures is necessary. A Member State should use the same notification and consultation procedure if measures have already been taken urgently in response to the appearance or resurgence of a serious cross-border threat to health.\(^ {119}\)

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\(^{114}\) Decision No. 1082/2013/EU on serious cross-border threats to health and repealing Decision No. 2119/98/EC. Article 12(1).

\(^{115}\) For more information about the Committee, see ibid. Article 17.

\(^{116}\) Ibid. Article 12(2) and (3).

\(^{117}\) Ibid. Article 14.

\(^{118}\) Ibid. Article 3.

\(^{119}\) Ibid. Article 11(2) and (3).
9. In the event of a serious cross-border threat to health overwhelming the national response capacities, an affected Member State may also request assistance from other Member States through the Community Civil Protection Mechanism.\(^\text{120}\)

10. In addition to the above-mentioned EU Decision on Serious Cross-border Threats to Health, the framework limiting the measures taken by the EU Member States is the provisions of the ECHR and the ESC (paras. 55–41 of Annex 1 to the Analytical Report), which provide for the possibility of limitations of rights and derogations from human rights obligations when States take measures to combat emergencies.

1.3. Measures Taken at the European Union Level to Combat the COVID-19 Pandemic and Its Consequences

11. The spread of COVID-19 was not declared an emergency at the EU level. At the same time, taking into account the response of the WHO (the declaration of a PHEIC due to the COVID-19 pandemic and the adoption of relevant recommendations for States and their population),\(^\text{121}\) the EU adopts regulations providing for measures to support the EU Member States and continuously coordinates with the Member States to exchange information, assess needs and ensure a coherent response across the EU.\(^\text{122}\)

*Healthcare*

12. In order to provide personal protective equipment to the EU Member States, the European Commission announced seven tenders for the supply of medical equipment under an agreement on joint procurement of medical equipment between the EU Member States.\(^\text{123}\) With the participation of 36 EU Member States, seven tenders worth about EUR 1.5 billion was announced (the first four of them have already been signed).\(^\text{124}\)

13. Besides, on March 15, 2020, the European Commission took measures to ensure the availability of personal protective equipment in the EU Member States, requiring that the export of such equipment outside the EU is carried out with the authorization of Member States.\(^\text{125}\)

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14. On March 19, 2020, the European Commission decided to create a strategic rescEU stockpile of medical equipment within the framework of the EU Civil Protection Mechanism. Such equipment includes ventilators, personal protective equipment, reusable masks, vaccines, therapeutics and laboratory supplies. The Commission has committed itself to fully finance all costs of stockpiling the equipment and managing its distribution.126

15. On April 14, 2020, the Council of the EU approved a proposal from the European Commission to activate the emergency support and allocate EUR 2.7 billion to support the health systems of Member States in their fight against the COVID-19 pandemic for the period from February 1, 2020, to January 31, 2022.127

16. On May 28, 2020, the European Commission presented its proposal for a new EU health program for the period 2021–2027 called EU4Health. This program provides for a significant strengthening of the EU’s capacity to support Member States in the field of public health policy. The budget for the new program is expected to be around 9.4 billion EUR.128

17. On September 18, 2020, the European Commission published a set of recommendations for a common EU testing approach for COVID-19. The recommendations set out specific actions that will help EU Member States plan and organize their testing efforts at different stages and in different pandemic settings.129

**Economic and Financial Spheres**

18. Based on the Communication of the European Commission of March 13, 2020,130 some changes were made to the rules for providing financial assistance to the EU Member States, under which governments will be able to provide funds to citizens and companies to support them.131

19. By a decision of the European Central Bank of March 24, 2020, a new pandemic emergency purchase program of eligible marketable debt securities issued by central, regional, or local governments

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and recognized agencies was launched (its overall envelope was be 750 billion EUR). The goal of the program, which lasted until the end of 2020, was to support the EU economy.\footnote{European Central Bank. Decision on a temporary pandemic emergency purchase programme (ECB/2020/17). No. 2020/440. March 24, 2020. URL: \url{https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020D0440}.}

20. On May 19, 2020, the EU Council Regulation created the European instrument for temporary support of States in order to mitigate unemployment risks in an emergency after the COVID-19 outbreak. Under this instrument, the EU Member States will be provided with financial assistance in the total amount of EUR 100 billion until December 31, 2022.\footnote{Council of the EU. Regulation on the establishment of a European instrument for temporary support to mitigate unemployment risks in an emergency (SURE) following the COVID-19 outbreak. No. 2020/672. May 19, 2020. URL: \url{https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32020R0672}.}

21. Besides, on July 21, 2020, the leaders of the EU Member States agreed to allocate EUR 750 billion for economic recovery to help the EU cope with the crisis caused by the pandemic. Along with the economic recovery package, EU leaders agreed on a long-term EU budget of EUR 1,074.3 billion for 2021–2027. Given that EUR 540 billion have already been allocated to support the EU Member States, workers, and businesses, the overall EU recovery package is EUR 2,364.3 billion.\footnote{European Council. Conclusions from the Special meeting of the European Council (July 17–21, 2020). EUCO 10/20. July 21, 2020. URL: \url{https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf}.}

**Tourism**


23. Besides, in order to slow the transmission of the COVID-19, on March 17, 2020, EU leaders agreed upon the temporary restriction on “non-essential” travel to the EU, which was in force until June 30, 2020. Travel for EU citizens outside the Union, to countries with a high epidemiological risk, was also not recommended.\footnote{See European Commission. Guidance on the implementation of the temporary restriction on non-essential travel to the EU, on the facilitation of transit arrangements for the repatriation of EU citizens, and on the effects on visa policy. No. C (2020) 2050. March 30, 2020. URL: \url{https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/european-agenda-migration/20200330_c-2020-2050-report_en.pdf}.} Due to the improvement of the situation in some EU Member States and beyond, in June 2020, the EU Council agreed on a common approach to gradually lift restrictions on “non-essential” travel to the EU Member States from July 1, 2020.\footnote{European Commission. Communication to the European Parliament, the European Council and the Council on the third assessment of the application of the temporary restriction on non-essential travel to the EU. No. COM/2020/399. June 11, 2020. URL: \url{https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1595236855614&uri=CELEX%3A52020DC0399}.}

24. On September 4, 2020, the European Commission proposed to ensure greater clarity and predictability of the content of measures restricting free movement in the EU Member States through the adoption of a recommendation by the EU Council. The Commission noted that any measures taken by the
EU Member States that restrict free movement due to the coronavirus pandemic should be coordinated at the EU level.  

25. On October 12, 2020, the Council of the EU adopted a recommendation proposed by the European Commission setting out common criteria and frameworks for action on travel in response to the COVID-19 pandemic. It is indicated that this recommendation is intended to help Member States make travel decisions based on the epidemiological situation in each region.  

26. According to the recommendation, the European Centre for Disease Prevention and Control has to publish a common color map weekly, broken down by regions, with data provided by Member States based on the following criteria:

- the total number of newly notified COVID-19 cases per 100,000 population in the last 14 days;
- the number of tests for COVID-19 infection per 100,000 population carried out during the last week (testing rate);
- the percentage of positive tests among all tests for COVID-19 infection carried out during the last week (test positivity rate).  

27. Member States also agreed on a general framework for possible measures for travelers:

- they should not restrict the free movement of persons traveling to or from another Member State’s areas classified as “green”;
- if considering whether to apply restrictions on an area classified other than “green”, Member States should respect the differences in the epidemiological situation between “orange” and “red” areas and act proportionately, and also take into account the epidemiological situation on their own territory;
- they should not refuse the entry of persons traveling from other Members States; however, they could require persons traveling from an area classified other than “green” to undergo quarantine and/or a test for COVID-19 infection after arrival;
- they could require persons entering their territory to submit passenger locator forms in accordance with data protection requirements (in this regard, it is proposed to develop a common European Passenger Locator Form).  

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140 Ibid. P. 8. Paras. 8, 10.  

28. The EU Member States also agreed to provide the general public with clear, comprehensive, and timely information about any new measures or requirements at least 24 hours before they come into effect.\(^\text{142}\)

29. Thus, it can be concluded that the EU authorities have taken and continue to take a set of measures in various areas of public life (healthcare, economy, finance, and tourism) in order to combat the spread of COVID-19 and its consequences for the EU Member States.

2. Regulatory Framework and Mechanisms for Responding to Health Emergencies at the Eurasian Economic Union Level

2.1. Legal Framework for Measures Taken at the Eurasian Economic Union Level

30. The EAEU is a fairly young integration that has been operating in the current legal framework since January 1, 2015.\(^\text{143}\) The EAEU Treaty does not address emergency and health issues, except for a small range of issues of medical support for labor migrants.\(^\text{144}\)

31. The EAEU is an international organization for regional economic integration. It provides for free movement of goods, services, capital, and labor, pursues coordinated, harmonized, and single policy in the sectors determined by the Treaty and international agreements within the Union.\(^\text{145}\)

32. The bodies of the EAEU (the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council, the Council and the Board of the Eurasian Economic Commission), within the framework of their powers, adopted acts aimed at preventing and averting the spread of COVID-19 in the spring of 2020.

2.2. Measures Taken at the Eurasian Economic Union Level to Combat the COVID-19 Pandemic and Its Consequences

33. On March 16, 2020, the EEC Council adopted Decision No. 21.\(^\text{146}\) It provides for exemption from import customs duties for goods imported to prevent and avert spreading coronavirus infection across the EAEU. The decision applies primarily to personal protective equipment, disinfectants, diagnostic reagents, certain types of medical equipment and materials.

\(^{142}\) Ibid. P. 12. Para. 25.

\(^{143}\) The Member-States of the EAEU are the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, and the Russian Federation. URL: http://www.eaeunion.org/.

\(^{144}\) The EAEU Treaty. URL: https://docs.eaeunion.org/docs/en-us/0017353/itia_05062014_doc.pdf.

\(^{145}\) Ibid. Article 2.

\(^{146}\) The EEC Council Decision No. 21 “On Amending Certain Decisions of the Customs Union Commission and on Approving the List of Goods Imported into the Customs Territory of the Eurasian Economic Union to Ensure that Measures to Prevent and Avert Spreading 2019-nCoV Coronavirus Infection are Implemented by the Eurasian Economic Union Member States”. URL: https://docs.eaeunion.org/docs/ru-ru/01025251/err_24032020_21.
34. On March 24 and 31, 2020, the EEC Council adopted Decisions No. 41, 42, 43. A temporary ban was introduced on exporting personal protective equipment, protective agents and disinfectants, products for medical use, and medical materials from the EAEU.

35. On March 25, 2020, the EEC Council adopted Disposition No. 11 on joint and coordinated actions of the EAEU Member States in a wide range of issues during the implementation of such measures. In particular, the Member States agreed to exchange information and hold timely consultations on the actions being taken and the national regulatory legal acts being adopted in order to respond to spreading coronavirus infection, coordinate the activities of national authorized healthcare authorities on an ongoing basis, and ensure the sanitary and epidemiological welfare of the population.

36. On April 10, 2020, members of the Eurasian Intergovernmental Council adopted a package of measures to be taken in the EAEU to ensure the vital needs of the population, maintain mutual trade and free movement of goods in the context of the COVID-19 pandemic, and create conditions for subsequent economic growth. The order provides for two types of measures.

37. First, a package of urgent anti-crisis and stabilization measures, including:

- arranging interaction between the relevant authorized authorities in carrying out sanitary and epidemiological activities to prevent and minimize consequences of spreading coronavirus infection;
- the creation of a “green corridor” for supplying critical goods;
- introduction of single temporary restrictions on the export of critical goods to third countries;
- prompt prior consultations at the level of members of the EEC on draft national legal acts aimed at introducing temporary restrictions related to the exceptional need to respond to the spread of coronavirus infection;
- consultations of authorized authorities in the sphere of technical regulation;
- temporary reduction or zeroing import customs duties on components and materials for specific industries with regard to their economic and social significance, etc.

38. Second, measures aimed at creating conditions for the recovery and further economic development, including:

- ensuring macroeconomic stability and sustainable functioning of financial markets and payment systems;

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• support for real sector enterprises;
• further digital transformation of trade, including wider use of electronic bills of lading and accompanying documents, digitized interaction of logistics operators, more extensive use of electronic digital signatures and technologies for automatic registration and release of imported, exported, and transit goods.
ANNEX 3. INITIAL RESPONSE TO THE COVID-19 PANDEMIC BY STATES

I. France

Summary

1. The state of health emergency was provided by the law adopted specifically for COVID-19 and possible future pandemics, although other emergency regimes have already existed.

2. According to the new law, the Government is able to take any restrictive and support measures it finds appropriate to handle the crisis.

3. Restrictive measures, meant to prevent the spread of the virus, were imposed in parallel with wide support measures, particularly, those for business. Such support measures focused mainly on the SMEs which had their tax residence in France, regardless of their ownership. They are entitled to receive financial assistance through a special fund and could apply for a State warranty.

4. Measures were enacted under a centralized decision-making process, and most attempts by mayors to adopt stricter initiatives were quashed in courts.

5. The main issue with the state of health emergency lays in the lack of constitutional grounds for its adoption and the question of its compatibility with the ECHR.

6. Also, its duration is not enclosed in any specific delay by the law and could lead to a violation of the rule of law.

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

7. The French Constitution contains two mechanisms that could correspond to a state of emergency: exceptional circumstances and state of siege.

8. Exceptional circumstances are provided by Article 16 which is commonly called “the ‘full powers’ — plein pouvoirs provision”. It grants the President the power to take any measure required by exceptional circumstances.

9. Two conditions determine such circumstances:

   • a serious or immediate threat to “the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfillment of its international commitments”, and

   • interruption of “proper functioning of the constitutional public authorities”.

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151 Information in Annex 3 is presenting the initial response to the COVID-19 pandemic by States and relevant as of Summer 2020.
10. According to Article 16, the measures “shall be designed to provide the constitutional public authorities as swiftly as possible, with the means to carry out their duties”. This provision is ambiguous and does not provide any limitations on the measures that can be taken.

11. The only condition is the mandatory consultation of the Prime Minister, the Presidents of the Houses of Parliament, and the Constitution Council before enacting each measure. After 30 days, the Constitutional Council can reassess the circumstances if asked by the President of the National Assembly, the President of the Senate, sixty Members of the National Assembly, or sixty Senators. It must conduct such an examination after 60 days.

12. The state of siege regime lies in Article 36 which states: “A state of siege shall be decreed in the Council of Ministers”.

13. The state of siege can be declared only in case of an imminent threat resulting from a foreign war or an armed insurrection and implies the transfer of public order and police powers to the military authority. Its duration must be provided by the decree declaring the state of siege.

14. The state of siege has not been used in France since World War II.

1.2. Pre-COVID-19 Regulatory Framework


16. In accordance with the Law of April 3, 1955, the state of emergency is established by decree of the Council of Ministers. While there is no clear definition of what this notion embraces, the Law of April 3, 1955, specifies that it can be declared either “in case of imminent peril resulting from serious violations of public order, or in the event of events presenting, by their nature and gravity, the character of public calamity”.

17. The decree declaring the state of emergency must prescribe precisely its territorial scope within the national territory, and may only declare it for 12 days. The extension of the state of emergency beyond 12 days can only be authorized by the Government.

18. Once established, the state of emergency grants the executive branch extended powers. As such, local authorities can prohibit the movement of people or vehicles in the places and at the time fixed by decree. The Minister of the Interior may pronounce the house arrest of any individual in respect of whom there are serious reasons to think that their behavior constitutes a threat to the security and the public order. The freedom of association can be restricted, whereas any associations or de facto groups that participate in the commission of acts seriously undermining the law can be dissolved by a decree of the Council of Ministers. The Minister of the Interior and local authorities can order the temporary closure of theaters, bars, and other spaces of public gathering.

152 The Administrative Supreme Court ruled that this law was not abrogated by the ulterieur and current French Constitution (Council of the State, Ordinance of November 21, 2005, No. 287217). Article L. 2131-1 Code of Defence states that the rules regarding the state of emergency are provided by the Law of April 3, 1955.
19. It is supposed that the state of emergency should be used for a short period as a reaction to particularly serious events. However, in practice, the state of emergency in France has always been prorogued, most of the time, for a minimum of 6 months and a maximum of nearly 2 years (as the reaction towards the 2015 terrorist attacks).

20. It is worth mentioning that the Law of April 3, 1955, says nothing about a potentially never-ending succession of laws proroguing the state of emergency. To this day, there is no legal mechanism resolving the issue of the maximum duration for the state of emergency.

1.3. COVID-19 Regulatory Framework

21. A COVID-19 lockdown was declared by the Decree No. 2020-260 (modified by the Decree No. 2020-279 of March 19, 2020), on the basis of exceptional circumstances derived from administrative case law.

22. No amendments or modifications were made to the pre-COVID state of emergency legislation and regulations. However, a new “state of health emergency” was established by the Law No. 2020-290, which was adopted under the accelerated legislative procedure. In accordance with this law, a state of health emergency was incorporated into the PHC.

23. The state of health emergency is declared by a decree adopted by the Council of Ministers, which should indicate the reasons for it and specify its territorial scope of application.

24. In accordance with the new Article L. 3131-13 of the PHC, the state of health emergency can be declared for 1 month and promulgated beyond that duration only with authorization by law. Notwithstanding this general provision, the Law No. 2020-290 stipulated a specific provision, which provided for an exception during the COVID-19 crisis — the state of health emergency from the very beginning was declared for 2 months.

25. The laws relevant to the state of health emergency grant the Prime Minister extensive powers to restrict the freedom of movement. The Prime Minister can “regulate the movement of people and vehicles and even forbid it, prohibit people from going out of their home, place people in isolation, restrict or forbid assemblies and reunions, requisition any people, goods or services necessary to fight the catastrophe or even fix the prices of some goods when there are tensions on their market.”

26. The new state of health emergency introduced such measures as isolation and quarantine. The Minister of Health also enjoys extended powers to organize the public health service. The crisis was also used as the opportunity to enhance his powers before the declaration of the state of health emergency, in case of a risk of a pandemic to prevent its occurrence.

27. Additionally, a scientific committee must be established to provide regular reports on the evolution of the sanitary crisis, the appropriate measures to respond to it, and their suitable duration. An opinion from this committee is required for the adoption of law extending the state of health emergency.

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153 Case law also underlines that the state of emergency should necessarily be temporary (Council of State, Ordinance of November 14, 2005, Rollin, No. 286835, Rec. p. 499).

154 See the Report No. 3237 of the National Assembly, November 19, 2015.

155 This is the case law which absolves the administration from respecting the principle of legality in “exceptional circumstances” which are qualified when the functioning of public institutions and public services cannot be assured by other means. This case law was only used occasionally, mostly during war times, when no other legal mechanism or instrument could be used.
28. According to Article 38 of the French Constitution, ordinances are void if they are not ratified by the Parliament by a date set in the delegating statute. The Law No. 2020-290, for most of the measures, fixed a 2-month period to register a ratifying law in the Parliament. However, some specific measures have different periods for their adoption: e.g., 3 months to apply measures adopted under the new state of health emergency to overseas territories. Moreover, the PHC provides a genuine sunset clause in its Article 3131-14, which states that any measures taken to implement the state of health emergency will be annulled together with the state of emergency.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

29. There is no definition of the term “measure(s)” in the COVID-19 related legislation.

30. Due to the declaration and prorogation of the state of health emergency, the powers of the executive branch were largely extended. As such, the Law No. 2020-290 assigned the Government with the power to adopt ordinances. Therefore, it is the Government that is vested with the legislative power concerning the measures that could be taken in the fight against the COVID-19 crisis. In addition to that, the Government also exercises the regulatory power granted under Article 37 of the French Constitution.

31. It must be noted, however, that the new legislation resulted in a competition of powers between the Government and mayors concerning some measures to fight the spread of the virus, especially the powers of general administrative police. In theory, mayors could tighten the national measures adopting them in accordance with local circumstances. At the same time, most measures enacted by mayors during the COVID-19 were quashed by the administrative judge.

32. As such, decisions revoking the prohibition of docking any ships except those carrying essential goods in overseas municipalities, the declaration of curfew, or the obligation to wear a mask in the public space of the municipality have already been taken. Those decisions were taken on the ground that the measures had been disproportionate and/or the mayors had not provided sufficient reasoning justifying the specificity of local circumstances. At the same time, the curfew in Nice was validated by the judge since it concerned only a small part of the city and prolonged the curfew decreed by the local state representative only by two hours. Other measures, much less restrictive, were also implemented depending on the identification of infection clusters and implying the closure of some public facilities.

154 Such ordinances have the value of statutes, see the French Constitution. Article 38.

157 The municipal police powers are provided by Article L. 2212-1 of the General Code of Local Collectivities. This code grants the power to take exceptional measures to respond to a very serious danger to the mayors, who are obliged to inform the local representant of the Government of the taken measures and the circumstances justifying their adoption (Article L. 2212-4 of the General Code of Local Collectivities).

158 Conseil d'État, Ordonnance du 22 mars 2020, Syndicat jeunes médecins, No. 439674.

159 Administrative Tribunal of Guadeloupe, Ordonnance du 27 mars 2020, Préfet de la Guadeloupe, No. 2000294.

160 Administrative Tribunal of Caen, Ordonnance du 31 mars 2020, Préfet du Calvados, No. 20000711; Administrative Tribunal of Montreuil, Ordonnance du 7 avril 2020, No. 2003861.

161 Conseil d'État, Ordonnance du 17 avril 2020, Commune de Sceaux, No. 440057.

162 Administrative Tribunal of Nice, Ordonnance du 22 avril 2020, Ligue des droits de l'homme, No. 2001782.
2.1. General Measures

Transport

33. Instruction of the Prime Minister No. 6149/SG of March 18, 2020,\(^{163}\) provided for the closure of national borders. This measure was implemented by other rules applying within the national territory:

- boats carrying more than 100 passengers were forbidden to stopover or stay within territorial seas according to Article 4 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-545);

- transportation of people through commercial flights was forbidden between the mainland and overseas territories and between overseas territories themselves, except for cases of emergencies, reasonable justification related to family matters, or professional obligation according to Article 5 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-617 of May 22, 2020);

- public transportation by roads or railroads were subject to mandatory daily disinfection according to Article 6 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-545).

Public Health

34. The following measures were taken:

- the so-called "white plan" was declared — an emergency plan for hospitals facing a sanitary crisis. It allows their internal reorganization in order to adapt health services to the crisis (for example, beds in intensive care units were doubled). Each plan is applicable to every hospital but the local state representant may decide on launching it (Articles L. 3131-7, L. 3131-8 and R. 3131-4, R. 3131-5 of the PHC);

- stocks of masks for respiratory protection and sanitizers were requisitioned according to Article 1 of the Decree No. 2020-247 of March 13, 2020, and then Article 12 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-545);

- the local state representant was granted the power to requisition any health structure and service or to take any professional needed for its functioning according to Article 12-1 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-545);

- the Minister of Health was granted the power to requisition any planes and professionals necessary to their functioning to guarantee the transit of sanitary products and protection equipment according to Article 12-1 of the Decree No. 2020-293 (abrogated by the Decree No. 2020-545);

- an information system was developed to collect, process, and exchange personal data, if needed, without the consent of individuals, to fight the spread of the coronavirus (Article 11 of the Law No. 2020-546 of May 11, 2020, proroguing the state of health emergency, and the Decree No. 2020-551 of May 12, 2020). No judicial claims were brought against these measures. However,

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Education

35. In the field of education, the following measures were adopted: nurseries, schools, and universities were closed according to Article 4 of the Ministerial Order of March 14, 2020.165

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

36. The Government has full powers to close businesses that are opened to public. It can do so through executive orders and then a decree. At the same time, the issue of home office was left at the discretion of employers.

Industrial Sector

37. Since this industry falls under the notion of a “sector particularly necessary to the safety of the Nation and to the continuity of the economic and social life”166 and, therefore, was deemed to keep a normal business activity, restrictive measures in the sector were almost non-existent.

Non-Productive Sector

38. Most restrictive measures were related to a non-productive sector. As such, spaces open to the public, such as restaurants, bars, shops, or exhibit centers, were closed. Only shops of basic necessity remained open.167

39. The violation of this restriction originally exposed to a contravention of the first class (38 EUR), which was then stepped up to a contravention of the fifth class (1,500 EUR).168 Furthermore, the local state representative could pronounce an administrative closure of the violating establishment for a certain time.

40. According to Article L. 1222-11 of the Labour Code, employers can impose home office to their employees in case of an epidemic threat to secure the continuity of the company’s activity and the health of the workers.

41. It must be noted that there were no sunset clauses, and executive orders imposing the measures were abrogated by subsequent legal instruments.

2.3. Containment Measures Regarding Population

42. The Government, and more precisely the Prime Minister, is the most powerful authority when it comes to containment measures for the population. It is noteworthy to highlight that its competences for

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164 The app was introduced by the Decree No. 2020-650 of May 29, 2020.
167 These establishments were identified in the Annex I of the Executive Order of March 14, 2020.
168 For the ranking of contravention in French law, see the Criminal Law Code. Article 131-13.
decreeing the lockdown or isolation measures for potentially sick people were specially mentioned by the Law No. 2020-546 and included in the PHC [para. 45 of Annex 3 to the Analytical Report].

43. Lockdown was declared by the Decree No. 2020-260. The Decree clearly stipulated exceptions to the lockdown, which included journeys to work, shops of basic necessity, places related to health matters, for compelling family matters, for physical exercise, and needs of pets. A derogation form had to be filled and carried at all times by individuals going out of their residence.

44. Violation of the lockdown exposed the individual to a contravention (EUR 38 which was increased to EUR 135). In case of recidivism, the amount could go up to EUR 1,500. In case of more than three violations within a month, it was considered as a criminal offense punished by 6 months in prison and EUR 3,750 of penalty.

45. Isolation and quarantine were provided by the Law No. 2020-546 in its Article 3. Modifying Article L. 3131-15 of the HPC, it gave the Prime Minister the power to isolate and assign to a place people who were entering the national territory after having been in a place where the virus was circulating. The Constitutional Council validated the constitutionality of this disposition under the condition that if a person is required to remain at his or her home or in a place of accommodation for more than 12 hours per day, there should be a judge authorization.169

46. With respect to a sunset clause, Article L. 3131-15 of the PHC states that any measure enacted must be proportionate to the existing threat and expire immediately when it is no more necessary. Thus, the measures must end at the same time as the state of health emergency.

47. Any regulatory measure adopted by the government can still be reviewed by the administrative judge to assess its legality.170 For instance, a claim was lodged on the closure of markets,171 but the judge stated that the emergency had justified this measure.172 Another case arose regarding the decision of the local state representative in Paris to use drones for surveillance purposes.173 If it was judged that the restrictive use of the drone had been proportionate to the aim of public health protection, the judge considered that the collected data was personal and by such was submitted to the legal regime of the treatment of personal data. It thus required the authorization by ministerial decree after a public opinion of the National Commission for data processing and liberties. Also, the administrative judge assessed requests in order to force the State to take more extensive measures such as to deliver FFP2 and FFP3 masks to health workers174 or to impose a stricter lockdown nation-wide.175

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170 L. 3131-18 PHC. Béatrice Guillaume has underlined that the administrative judge is already very efficient to give quick decisions for accelerated procedures. Guillaumin B. L'état d'urgence sanitaire: de l'empirisme avant toute chose, JCPA No. 17, April 2020, 2132.


172 Council of State, Ordinance of April 1, 2020, Fédération nationale des marchés de France, No. 439762.

173 Council of State, Ordinance of May 18, 2020, Association la Quadrature du net and Ligue des droits de l'homme, No. 440442 and No. 440445.

174 At the beginning of the crisis, France did not have enough masks supplies even for health workers. See Council of Statey, Ordinance of March 28, 2020, SMAER, No. 439726.

175 Council of State, Ordinance of March 22, 2020, Syndicat des jeunes médecins, No. 439674.
2.4. Support Measures for Industrial and Non-Productive Sectors

48. On a national level, the Law No. 2020-290 granted the Government powers to intervene within the economic sector. As a result, most of the measures were enacted by ordinances and then implemented by decrees.\textsuperscript{176}

\textit{Industrial Sector}

49. The Government announced diverse support plans that included financial aid. The following support measures were taken:

- according to Article 6 of the Law No. 2020-289 of March 23, 2020, a state guarantee was issued for loans to companies for a total amount of 300 billion EUR. The guarantee is charged and cannot cover the total amount of the loans. To beneficiate from it, a company must be registered in France but no requirement is made about the nationality of the capital of such company;

- a solidarity fund was created for small companies particularly affected by the COVID-19 crisis, like those which had to close due to the lockdown (Ordinance No. 2020-317 of March 25, 2020). The amount of aid starts from EUR 1,500 up to 5,000 depending on the economic situation within the company. The conditions to beneficiate from this fund mostly assured that the aid went to SMEs, a maximum turnover was fixed by Article 1 of the Decree No. 2020-371 of March 30, 2020.\textsuperscript{177} A foreign SME can beneficiate from this fund if it has its tax residency in France;

- a fund of EUR 20 billion was created for the state to invest in companies according to Article 10 of the Law No. 2020-473 of April 25, 2020. It is supposed to be used to help companies, such as Air France or Renault, to survive after the crisis;

- a mechanism of partial unemployment was created to save jobs. It was provided by the Decree No. 2020-325 of March 25 and the Ordinance No. 2020-346 of March 27, 2020.

50. On the local level, some aids were given by local communities. For instance, the city of Paris allowed companies to suspend the payment of any bill due to the city until June 30, 2020.\textsuperscript{178}

\textit{Non-Productive Sector}

51. For the touristic sector, travel service contracts which were terminated early between the March 1 and September 15, 2020, the service provider could, instead of repaying customers, give them an identical or equivalent performance or a valid credit note for 18 months, according to the Ordinance No. 2020-315 of March 25, 2020.

52. As to a sunset clause, the ordinances had to be ratified by the Parliament and their time scope had to be provided. Moreover, the texts creating these aids were valid within a limited time and another act would have to be adopted to prorogue them. For instance, the state warrantee is meant to be applicable until December 31, 2020.\textsuperscript{179}

\textsuperscript{176} Some decrees were announced in the ordinances but never adopted though (for instance the decree for the definition of “sectors of activities particularly necessary to the safety of the Nation and the continuity of socio-economic life”).

\textsuperscript{177} This Decree was then modified by the Decree No. 2020-552 of May 12, 2020.


2.5. Support Measures for Population

53. The Law No. 2020-290, which delegated to the Government most of the power, provides conditions to support the population. Once the ordinances were adopted, decrees were issued to precise the measures. Local communities also have jurisdiction to grant aids to the population if they have a budget to do so.

54. In addition to the above, the following measures were taken:

- to recognize the work of the most exposed professions to the virus, according to the Decree No. 2020-568 of May 14, 2020, a supplementary payment from EUR 500 to 1,500 was granted to civil agents who were at the forefront of the crisis, such as health worker;

- according to the Ordinance No. 2020-324 of March 25, 2020, unemployment allowances were extended for people losing their rights to it after March 12, 2020, and until July 31, 2020;

- an exceptional aid of solidarity was provided by the Decree No. 2020-519 of May 5, 2020, which granted the population identified as the poorest an amount of money starting from EUR 100 and which depended on the situation of an applicant and a number of their children.

55. As to a sunset clause, the ordinances had to be ratified by the Parliament and the period of their validity had to be set. Moreover, the texts creating these aids were limited in time, and to prorogue them, another act would have to be adopted.

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180 If the person was already receiving the minimal subsidies in normal time, see Decree No. 2020-519 of May 5, 2020. Article 1.
II. Germany

Summary

56. All measures taken by the federal and lands’ governments against the pandemic are subject to the requirement of effectiveness. This applies both to fighting the virus itself and the support to the economy. This means that any measures should effectively contain the spread of the virus, on the one hand, and limit the economic consequences, on the other.

57. In any case, however, the question of evidence arises. It is uncertain which measures will lead to success. Even though much has already been discovered about COVID-19 after months of intensive research, it is still unclear how exactly the virus spreads, especially why it does so quickly and how infection can be prevented. In this regard, any measures taken to contain the spread of the virus and to support the economy must be justified by the evidence.

58. For the reasons above, the German law is based on the relationship between effectiveness and evidence and requires the application of the principle of proportionality, which follows from the principle of the rule of law. Measures must, therefore, be appropriate, necessary, and justified, i.e., the state must be able to give reasons why it restricts one or another right.

59. The state is not completely free in the area of support measures either, especially in the complex area of the economy. The gigantic resources that Germany spends after a long period of austerity policy may have the potential to distort competition.

60. The law offers the state sufficient possibilities to respond to the enormous dangers of a pandemic. At the same time, however, it also imposes limits.

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

61. The Basic Law (the German Federal Constitution) provides an “Emergency Constitution” in several Articles (12a III-VI, 53a, 57a, 87a, 91, 115a sq.). The founders of the Constitution gravely feared a new version of the Reich President’s right to issue emergency decrees under Article 48 Weimar Constitution from 1919, based on which essential basic rights and liberties were suspended in 1933 (the most known is the Reichstag Fire Decree). Accordingly, the newly established Basic Law of 1949 initially refrained from an explicit “Emergency Constitution”; only some marginal areas of emergency law were regulated.

62. Later, Article 91 of the Basic Law was amended in such a way that on its basis a state of internal emergency can be declared. However, it must be noted that Article 91 does not allow for a shift of powers towards the executive branch or special interventions in fundamental rights. Instead, the declaration of a state of internal emergency enables the Federal Government and the states to provide mutual

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182 Reich Law Gazzette I 1933. P. 83.

administrative assistance. A state of internal emergency can only be declared in "order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a land".

1.2. Pre-COVID-19 Regulatory Framework

Federal Laws

63. The FIPA\textsuperscript{184} is a federal legal basis for dealing with infectious diseases. It was passed in 2000 and consists of 16 sections and 77 articles. In the past 20 years, the legislator modified it several times, for the last time — in March 2020, due to the COVID-19 outbreak.

64. Article 2 of the FIPA defines certain important legal terms within it. Neither the term "pandemic" nor the term "emergency situation" is mentioned in this Article. Neither of those terms is mentioned in the entire act too. Although these terms are not explicitly named, the FIPA plays a major role in terms of fighting the COVID-19 pandemic.

65. In this regard, the main focus is to be given to Article 28, which deals with certain "protective measures" that apply to sick people, suspects of illness, suspected infectious people. The competent authorities can apply those measures in different ways:

- if the measure is supposed to regard one specific person only, the authorities will order an administrative act;
- if the measure addresses several people, the authorities will order a general administrative act or an executive regulation.\textsuperscript{185}

66. The main purpose of the FIPA is to effectively and adequately fight COVID-19 while ensuring the personal freedoms of the population.

67. Under the FIPA the measures may be taken based on a strict reasonableness test. Regional and local authorities need to take into account the respective level of infection rates and current circumstances.

Land Laws

68. Laws of separate lands have not played a prominent role at a regional level so far. Therefore, standards established by those laws are not covered within this Analytical Report. However, legislators at the land level have also been active in the course of the COVID-19 pandemic, amending existing or enacting new laws.

1.3. COVID-19 Regulatory Framework

Federal Laws

69. The most significant legislative amendment introduced in the context of the COVID-19 pandemic is the amendment of the FIPA. Since its introduction in 2000, Article 28 section 1 contained a general clause according to which authorities could take "all necessary measures" to fight infectious diseases. Based on

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In this article, local authorities responsible for the enforcement of the act declared various pandemic control measures. The bans on assemblies in public spaces, closure of kindergartens, schools, universities, cultural institutions, retail outlets, cafes, amusement arcades, restrictions on visits to hospitals, retirement homes, the prohibition of religious services in the presence of the congregation were particularly controversial, and it has been debated whether these measures were lawfully ordered on the basis of the FIPA. However, the legislator modified Article 28 section 1 sentence 1 for reasons of “clarification”. In other words, the legislator did not extend the scope of Article 28.

In addition, by the end of March 2020, the Federal Parliament fundamentally redesigned Article 5 of the FIPA. The wording of the entire article was completely changed. As such, it now states that “The Federal Parliament notes an epidemic situation of national importance. The Federal Parliament shall revoke the determination of an epidemic situation of national importance if the conditions for its determination no longer exist. The repeal shall be published in the Federal Law Gazette. The Federal Ministry of Health shall be empowered, within the framework of the epidemic situation of national importance, without prejudice to the powers of the lands […]”.

Therefore, the Federal Parliament is empowered to declare an epidemic situation of national importance. At the same time, it may also subsequently determine on its own that the conditions for an epidemic situation no longer exist. In the meantime, neither provisions of Article 5 nor any other part of the FIPA defines when an epidemic situation of national importance occurs. In this respect, the Federal Parliament, which is henceforth responsible for determining such a case, has a corresponding scope of assessment.

The Research Services of the German Bundestag has recently reiterated in a study that “the Federal Parliament is free to apply its own criteria for the declaration of the epidemic situation”. In other words, no conditions other than the decision of the Federal Parliament need to be fulfilled in order for an epidemic situation to be deemed existing.

Land Laws

Under the Basic Law, the lands (and not the Federation) have the right to legislate as far as the Basic Law does not confer the legislative power to the Federation. In this regard, in the context of the COVID-19 pandemic North Rhine-Westphalia, which is the most densely populated land with approximately 18,000,000 inhabitants, has been taken as a common example. Only regulations that differ considerably from those in North Rhine-Westphalia are mentioned below.

State of Disaster

According to Article 73 section 1 number 1 of the Basic Law, the Federation has exclusive legislative power with respect to foreign affairs and defense, including protection of the civilian population. However,
the respective authorities in the lands have the competence to avert dangers for public safety. This includes the right to declare a “state of disaster”.

75. All 16 lands passed their own DPAs that is applicable when disaster actually strikes. Every DPA has its own definition of disaster. For example, the DPA of North-Rhine Westphalia defines in Article 1 section 2 number 2 that a disaster “is a damaging event which endangers or substantially impairs the life, health, or vital supplies of numerous people, animals, natural resources, or substantial material assets to such an unusual extent that it results in a threat to public safety”.\(^{191}\)

76. It is common to DPAs of all lands that in case of a disaster a more streamlined command structure is to be given to the authorities. For example, the cities and districts are usually the responsible authorities. However, according to Article 2 of the Bavarian DPA,\(^{192}\) when a state of disaster is declared by the Bavarian Government, the Bavarian Ministry of the Interior can attain the competence. So far, out of 16 lands, only Bavaria has used these means, and, for the first time in its history, it has done so without limiting the application of the act to certain areas but applying it to the entire territory.

**Epidemic Act North Rhine-Westphalia**

77. In addition to the DPA, North Rhine-Westphalia for the first time has enacted a so-called “Epidemic Act”.\(^{193}\) This act determines authorities within North Rhine-Westphalia responsible for the enforcement of laws and regulations to combat a pandemic.

78. The act was adopted on April 14, 2020. The same day, on the basis of Article 11 of the Epidemic Act, the Land Parliament identified that an epidemic situation due to the spread of a threatening contagious disease in the land threatens the nursing and health care of the population in North Rhine-Westphalia or significant parts of it.\(^{194}\)

79. Article 14 of the Epidemic Act empowered the Minister of Health to confiscate and dispose medical, nursing, or sanitary equipment.

**Executive Legislation of North Rhine-Westphalia in the Field of Protection from New Infections**

80. On the basis of Articles 28, 32 and in conjunction with Article 73 of the FIPA, and Article 10 of the Epidemic Act, the land’s Ministry of Labor, Health, and Social Affairs decreed the CoronaSchVO.\(^{195}\) The land also adopted other regulations, such as the CoronaEinrVO,\(^{196}\) and the Regulation on Childcare.

81. The CoronaSchVO encourages the competent authorities (as determined by Article 1 of the Epidemic Act) to enforce the rules “vigorously, consistently, and, where necessary, by coercive means”


(Article 17). It is not the police, but the local authorities that are responsible for the enforcement of the regulation. Nevertheless, these authorities receive “assistance” from the police under Article 17.

82. Infringements can be sanctioned as an administrative offense with a fine of up to 25,000 EUR.

83. As to a sunset clause, the regulation does provide an expiry date.

Infection Protection Act of Bavaria

84. The legislator in the land of Bavaria has passed an act similar to the one adopted in North Rhine-Westphalia, the Bavarian Infection Protection Act. According to Article 1, local authorities may declare a health emergency and subsequently take far-reaching measures.

85. As to a sunset clause, Article 11 of the Bavarian Infection Protection Act provides that the act expires on December 31, 2020, at the latest.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

86. Facing the COVID-19 pandemic, the German federal and land governments took various measures to contain the spread of the virus and limit its effect on the economy and society. The measures are defined “as any legally relevant action or omission attributable to the Lands or the Federation, regardless of its legal form”.

2.1. General Measures

Transport

87. Temporary restrictions on non-essential travel to the EU were adopted. Such measures include, inter alia, entry restrictions at Germany’s Schengen external borders, temporary border controls (enforced by police). Also, travelers without a valid reason for entering Germany were refused entry at internal borders, airports, and seaports.

Public Health

88. Such measures as confiscation and disposal of medical, nursing, or sanitary equipment, including raw materials, were taken in North Rhine-Westphalia.

Education

89. Schools and other educational institutions were closed in all lands from March 13, 2020, onwards.

90. Teaching was supposed to continue in a remote mode. Schools that re-open must adopt a strict hygiene plan.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

91. Since the beginning of the COVID-19 pandemic, it was part of the federal and land authorities’ strategy to keep the German economy running as far as possible. Still, restrictions were necessary to contain the outbreak of the COVID-19 and, since March 2020, several containment measures directed at the economy were introduced.

**Industrial Sector**

92. German industry was not subject to general regulations on pandemic control. Therefore, there were no measures specifically tailored to industrial production. Nevertheless, the competent authorities can take individual measures against manufacturers on the basis of the FIPA.

**Non-Productive Sector**

93. The lands closed leisure, cultural, sport, and entertainment facilities like bars, theaters, cinemas, museums, fairs, exhibitions, fitness studios, solariums, swimming pools, arcades, casinos, betting shops. The local governments were responsible for the closure. The measures were limited in time.

94. Article 14 of CoronaSchVO stipulates that the responsibility for the execution of measures is governed by the FIPA.

95. Since March 22, 2020, the measures aimed at the economy have been progressively relaxed. The closure of the numerous facilities from the non-productive sector has mostly developed into a state of generalized restrictions. These restrictions apply equally in all lands.

96. So far, during the COVID-19 pandemic, facilities of the so-called "critical infrastructure" remained open. Since April 24, 2020, these restrictions included, above all, the obligation, which is now mandatory for all facilities, to wear a mouth and nose covering.

97. Infringement of the above-mentioned restrictions can be sanctioned as an administrative offense with fines between EUR 200 and EUR 25,000.

2.3. Containment Measures Regarding Population

98. Quarantine is regulated by Article 30 of the FIPA and allows for the temporary isolation of people who are infected or suspected of being infected.

99. Quarantine is the most serious measure that can be taken under the FIPA against an individual. The responsibility is determined by the respective laws at the level of lands but is usually transferred to the local authorities. Quarantine measures are, therefore, issued at the local level.

100. If an affected person violates the quarantine order, he or she can be forcibly placed in quarantine in accordance with Article 30 section 2 of the FIPA. However, this requires a decision by a judge. In addition,
Articles 73, 74, and 75 of the FIPA provide for fines and penalties. If a person violates a quarantine order, Article 75 section 1 of the FIPA provides for a sentence of up to two years and a fine.

101. Since late April 2020, all lands have been requiring everyone to cover their nose and mouth with a mask (not necessarily medical) when using public transport and shops. The legal basis for this is Article 28 of the FIPA. The penalties for violating the new mask regulations range from warnings to fines. Bavaria, for example, those caught not wearing a face covering while taking public transportation or while in a store face a EUR 150 fine, which could double to EUR 300 for repeat offenders. Store owners who do not provide their employees with masks could face a EUR 5,000 fine. Those violating the rules in the northeastern land of Mecklenburg-Western Pomerania face a EUR 25 fine, while the central land of Hesse has instituted a EUR 50 fine.

102. A ban on contacts has several facets and is implemented differently in every land and at different times on the basis of Article 28 of the FIPA. A ban on contacts was introduced at the end of March 2020, after which the lands agreed on a joint approach and a catalog of measures in the field of public life and social contacts.\(^{202}\)

103. To protect patients in clinics, retirement homes, nursing homes, and facilities for disabled people, restrictions on visits were imposed in all lands from March 13, 2020.\(^{203}\)

104. On March 22, 2020, the land governments banned religious events and gatherings of all faiths (CoronaSchVO). The celebration of religious services was only allowed on a small scale for distribution as a livestream or for recording. Marriages and baptisms were only allowed in presence of the closest family circle, as well as funerals and mourning ceremonies in the open air with no more than ten people.

105. The package of measures agreed at the federal level between the lands in March 2020 to combat the COVID-19 pandemic included a ban on major events.

106. The COVID-19 tracking app is to be used on a voluntary basis.

### 2.4. Support Measures for Industrial and Non-Productive Sectors

107. The core of the economic policy measures is a billion-EUR aid program of the Federal Government, which was launched by the Federal Finance and Economics Ministries.

108. The Credit Institute for Reconstruction handles state loans, with the land assuming, up to a certain level, the default risk. These loans are targeted at companies, self-employed or freelancers who have got into financial difficulties due to the COVID-19 crisis and need a loan.\(^{204}\) Foreign participation in the company is irrelevant: the decisive requirement is that the company has its registered head office in Germany.

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In North Rhine-Westphalia, payments were made under the title “NRW-Emergency-Aid-2020”. The purpose of this measure is to provide emergency financial assistance in the form of direct grants to alleviate economic hardship and to secure the existence and continuation of small commercial enterprises, the self-employed, and members of the liberal professions. All companies with up to 50 employees that have their headquarters in North Rhine-Westphalia and are registered with a German tax office are eligible to apply.

**Industrial Sector**

An “Economic Stabilization Fund” has been established specifically for large companies based on the Act on the Establishment of an Economic Stabilization Fund of March 27, 2020.

**Non-Productive Sector**

The provision of state loans, short-time labor compensation, and the emergency aid program also apply to companies in the non-productive sector. There are prominent examples of cases when economic measures were applied: the commercial gastronomy sector, the rescue of the Lufthansa airline.

### 2.5. Support Measures for Population

The legal basis for the cut on Value Added Tax is the Second Corona Tax Aid Act that was introduced by the Federal Parliament and Federal Council on June 29, 2020. Article 3 of this act modifies the already existing VAT Act to the extent that the standard tax rate is now only 16% (instead of 19%) and the reduced rate only 5% (instead of 7%). This amendment came into force on July 1, 2020, and expired on December 31, 2020.

Raise of child benefits was also adopted on the basis of the Second Corona Tax Aid Act, as well as on another family policy measure, the “Bonus for children”. It was financed by the federal budget. This measure provides parents with a one-time payment of EUR 300 for each child.

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III. Italy

Summary

114. Italian legislation does not contain explicit provision for a “state of emergency” with the exception of a state of war, which is characterized by the refusal to grant full powers to the Government.

115. A multi-lateral approach has been applied for the COVID-19 crisis, i.e., authorities at state, regional, and municipal levels are involved and empowered to take certain measures.

116. A great number of legal acts was adopted to mitigate a spread of COVID-19 by taking a variety of measures.

117. The measures were taken by the State Government and gradually extended across the country with the following three aims:
   - to eliminate a spread of the COVID-19 by means of a gradual lockdown;
   - to increase the capacity of medical facilities;
   - to manage the pandemic-induced economic crisis through social and financial recovery package.

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

118. The Constitution of the Italian Republic does not include an explicit provision on a state of emergency.\(^\text{209}\) Though it does provide in Article 78 an opportunity to declare a state of war according to which the Parliament authorizes the Government to issue war decrees.\(^\text{210}\)

119. According to Article 77 of the Italian Constitution, “when the Government, in extraordinary cases of necessity and urgency, adopts under its own responsibility a temporary measure, it shall introduce such measure to Parliament for transposition into law. During dissolution, Parliament shall be convened within 5 days of such introduction. Such a measure shall lose effect from the beginning if it is not transposed into law by Parliament within sixty days of its publication. Parliament may regulate the legal relations arisen...”

\(^\text{209}\) On this issue see Angiulli G. The State of emergency and fundamental rights Italy. The state of emergency in Italy // Comparing Constitutional Adjudication. A Summer School on Comparative Interpretation of European Constitutional Jurisprudence. University of Trento. 2009.

\(^\text{210}\) At the time of drafting the Constitution, a minority proposal to include other cases of emergency within Article 78 was rejected, because, among other reasons, it is not possible to make use of analogies in relation to an exceptional provision, see Cerquazzi F. Stato d’emergenza e Costituzione. URL: https://www.iusinitinere.it/stato-demergenza-e-costituzione-26393 [citing Piazza M. L’illegittima “sospensione della costituzione” prevista nel cosiddetto c.d. “Piano Solo”// Giur. Cost. 2001. P. 804]. The choice of not including a provision on the state of emergency is due to historical reasons: the Constitution was drafted after the fascist regime with the purpose to achieve a democracy based on the separation of powers rather than their concentration at the head of a single body. It was, therefore, considered more appropriate to establish limits on the exercise of extraordinary powers, not least because emergency situations are not easily regulated a priori, given their exceptional nature. On this topic, for a reconstruction of the historical debate on the possible inclusion of a provision on the state of emergency in the Constitution see Cherchi B. Stato d’assedio e sospensione delle libertà nei lavori dell’assemblea costituente // Rivista trimestrale di diritto pubblico. 1981. Vol. 31. P. 1129.
from the rejected measure.”

120. This means that the Article 77 enables the Government to adopt a decree to be adopted by the President. The decree must be confirmed by the Parliament into a law within 60 days, otherwise, it loses its effects ex tunc (from the outset).

121. Moreover, the Italian Constitution identifies the allocation of competences between central State and regions, more specifically, the competent authorities responsible for the management of health crisis. As such, according to Article 117(2)(q), “the State has the exclusive competence in matter of international prophylaxis”. Still regarding the relationship between central State and decentralized bodies, according to Article 120(2), “The Government can act for bodies of the regions, metropolitan cities, provinces, and municipalities if the latter fail to comply with international rules and treaties or EU legislation, or in the case of grave danger for public safety and security, or whenever such action is necessary to preserve legal or economic unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders of local authorities”.  

122. The attention of the constitutional lawmaker for the collective dimension implies the adoption of measures to prevent and fight the spread of the virus that can limit individual freedoms, in the name of the collective interest for health and more broadly in the light of the principle of social solidarity provided under the Article 2 of the Italian Constitution (regarding the restrictions of individual freedoms see Articles 14, 16, 17 of the Constitution).

### 1.2. Pre-COVID-19 Regulatory Framework

123. Law No. 106/1982\(^{212}\) was approved and executed by the Italian Parliament in accordance with the IHR 2005.

124. In addition to that, on February 9, 2006, the National Plan for Preparedness and Response to an Influenza Pandemic was approved according to the WHO recommendations.\(^{213}\) Its aim is to identify the main objectives and actions to manage pandemics.

125. The Civil Protection Code (restated in the Legislative Decree No. 1 of January 2, 2018)\(^{214}\) is a legal base for a state of emergency. Article 4 of the Civil Protection Code establishes the authorities responsible for preventing, dealing with, and overcoming emergency situations. Among those are State

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\(^{211}\) Italicized by the ICLRC.


\(^{213}\) Piano nazionale di preparazione e risposta ad una pandemia influenzale. URL: http://www.salute.gov.it/imgs/C_17_pubblicazioni_511_allegato.pdf.

administrations, the Regions, the Autonomous Provinces of Trento and Bolzano, as well as the Local Authorities, which are all empowered to take measures. 215

126. According to the Civil Protection Code, there are three different categories of emergency. 216 The first two relate to emergencies that deal with ordinary means and those to face with extraordinary means by the Regions. The third type provides for a term “emergency of national relevance” which means those emergencies are “connected with calamitous events of natural origin or deriving from human activity which, due to their intensity or extent, must be immediately faced with extraordinary means and powers to be used during limited and predefined periods of time in accordance with Article 24”.

127. Article 7 also identifies the requirements to qualify a circumstance as an emergency and to allow the adoption of extraordinary means and powers: the national relevance, the intensity or extent, the urgency. The extraordinary means and powers can be put into place for a limited and predefined period of time.

128. A state of emergency of national importance is grounded on Article 24 (“Deliberation of the state of emergency of national importance”), which provides the allocation of competences among all the bodies involved:

“... in conjunction with the Regions and autonomous Provinces concerned, or in their imminence, the Council of Ministers, also formulated at the request of the President of the Region or Autonomous Province concerned and in any case acquired the agreement, resolves the relevant state of emergency national, fixing its duration and determining its territorial extension with reference to the nature and quality of events and authorizing the issue of civil protection orders referred to in Article 25”.

129. Article 24 establishes a sunset clause for the declared emergency which cannot exceed 12 months and can be extended for no longer than 12 additional months.

130. The Civil Protection Code establishes that the management of national emergency is delegated to the Government and the Council of Ministers has the power to declare an emergency, its duration, and territorial extension. The President of the Council of Ministers is designed as the national civil protection authority and holder of relevant policies and determines civil protection policies for the promotion and coordination of the activities carried out by central and peripheral State administrations and other regional and local authorities. The metropolitan Mayors and the Presidents of the Regions, as territorial civil

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215 The Civil Protection Code. Article 4 “Components of the National Service of civil protection”: “1. The State, the Regions and Autonomous provinces of Trento and Bolzano and the local authorities are members of the National Service and provide for the implementation of the activities referred to in Article 2, according to their respective laws and competence.”

216 Ibid. Article 7 “Type of civil protection emergency event”: “1. For the purposes of carrying out the activities referred to in Article 2, the civil protection emergency events are divided in the following:

a) emergencies connected with disasters of natural origin or deriving from human activity that can be faced by means of actions that can be implemented by the individual bodies and administrations that are competent in an ordinary way;

b) emergencies connected with natural or man-made disasters which by their nature or extension require a coordinated response by several bodies or administrations as they must be faced through the deployment of extraordinary means to be implemented for a predefined period of time, regulated by the Regions and autonomous provinces of Trento and Bolzano according to their legislative power;

c) emergencies of national importance connected with natural origin or man-made disasters which, by reason of their intensity or extension, must, with immediate intervention, be faced with extraordinary means and powers to be employed during limited and predefined periods of time pursuant to Article 24.”
protection authorities, exercise supervisory functions on the integrated and coordinated development of the same activities by the structures belonging to the respective administrations.

131. It is noteworthy to mention that the Constitutional Court has underlined in many rulings the primacy of the Government over the regional and local authorities in tackling the emergencies of national relevance, from one side, and, from the other, Regions’ crucial role in the management of emergencies since they must cooperate fairly with the central administrations. The centrality of the Government is aimed to ensure the unity of the country, applying a uniform regulation throughout the country.

132. During the COVID-19 pandemic, the emergency measures were taken by the Government on the basis of the mandate given by the ordinary legislation.

1.3 COVID-19 Regulatory Framework

133. Italy adopted new laws designed specifically to tackle the COVID-19 pandemic. The legal tools have been chosen in correlation with the Italian legal system on emergency, pursuant to the Italian Constitution, and based on the Civil Protection Code.

134. On January 31, 2020, on the ground of the Civil Protection Code, the Italian Government formally declared the state of emergency which was intended to endure for six months. The decision was made on the ground of scientific evidence resulting from the WHO recommendations and following the assessment of the Scientific Technical Committee at the Civil Protection Department (the national body that deals with the prediction, prevention, and management of emergency events).

135. Later the Government started enacting decree-laws on the basis of Article 77 of the Constitution.

136. In addition to that, on February 5, 2020, Decree No. 371 was adopted. In accordance with it, the Head of the Civil Protection Department nominated the members of the Scientific and Technical Committee of the Civil Protection Department. The Italian National Institute of Health, a member of the Scientific and Technical Committee, was empowered to monitor the trend of the COVID-19 spread under the Decree of the Head of the Civil Protection Department No. 640 of February 27, 2020. The Ministry of Health was issuing urgent orders by virtue of the mandate given to it by the law on the National Health Service.

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217 For an in-depth examination of Constitutional Court’s decisions about the relations between State and regions in matters of emergency events see Luciani M. Il sistema delle fonti del diritto alla prova dell’emergenza. P. 131–133.


220 The Italian National Institute of Health (Istituto superiore di sanità) is the main center for research, control, and technical-scientific advice on public health in Italy.


137. It is noteworthy that this decree did not establish any explicit changes in powers allocation for the responsible authorities, maintaining what the Italian Constitution and the current general laws on emergency provide for.

138. Initially, a sunset clause of the state of emergency had been established until July 31, 2020. However, on July 29, 2020, the Council of Ministers extended the state of emergency.

139. The Decree-Law No. 6 of February 23, 2020, converted with amendments into Law No. 13 of March 5, 2020, was adopted to mitigate the COVID-19 spread through the creation of the first “red” zone. The measures have been gradually implemented and put into effect by a series of decrees of the President of the Council of Ministers.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

Transport

140. The measures taken were aimed at reducing travel connections, containing crowds during the lockdown by limiting the mobility of people to work, health, and necessity reasons, while always ensuring the minimum essential service.

141. A total ban on flights from China was imposed on all airlines, companies, public and private entities managing the airports, which had to respect the ban and any implementing measures adopted by the National Aviation Authority and other competent authorities.

142. The Decree-Law No. 6 of February 23, 2020, provided for a suspension of freight and passenger transport services, land, rail, inland waters, and local public, including non-scheduled ones, with the exclusion of the transport of essential and perishable goods and without prejudice to any exceptions provided for by the territorially competent Prefects.

Public Health

143. Special health surveillance measure, a so-called quarantine with active surveillance, was taken. In addition to that, measures to improve the capacity of the health care facilities were also taken.

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224 For a list of the measures taken by the Minister of Infrastructures and Transports see URL: http://www.protezionecivile.gov.it/attivita-rischi/rischio-sanitario/emergenze/coronavirus/normalita-emergenza-coronavirus.


The Government also adopted the Decree-Law No. 18 of March 17, 2020,\(^{228}\) (the so-called “Decree ‘Cura Italia’”) providing for specific measures to empower the production and supply of medical devices and personal protective equipment, by increasing the level of financing of the standard national health needs.

There also was a possibility for the Ministry of Health, Regions, and the National Social Security to hire additional doctors, nurses, and other qualified persons with contracts for an unspecified period of time.

**Education**

Educational activities in the presence, as well as educational trips, early childhood education, schools of all levels, universities (except for post-graduate courses connected with the exercise of health professions),\(^ {229}\) and the Higher Education in Art, Music, and Dance institutions have been suspended in the whole national territory, until the end of the school year.

**2.2. Containment Measures Regarding Industrial and Non-Productive Sector**

**Industrial Sector**

During the lockdown, with the Decree of the President of the Council of Ministers of March 22, 2020, after a negotiation with trade unions the President of the Council of Ministers announced a general stop to non-essential production activities, with the exception of essential public services, basically food, supermarkets, banking, insurance, postal services, transports.\(^ {230}\)

**Non-Productive Sector**

The restrictive measures to non-productive sectors have been applied gradually starting from the first “red” zones to the whole national territory with the declaration of the lockdown:

- suspension of retail commercial activities, with the exception of the food and basic necessities activities;
- closure of museums and other places of culture;
- closure of restaurants and bar services;
- suspension of personal services (hairdressers, barbers, beauticians).

As to a sunset clause, the measures taken were in compliance with the Italian Constitution and emergency legislation since they were time-limited, appropriate, and proportional to the purpose, namely the protection of the right to health.

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\(^ {228}\) Decree-Law No. 18 of March 17, 2020, on measures to strengthen the national health service and to provide economic support for families, workers, and business related to the COVID-19 epidemiological emergency, published in the Official Journal No. 70 of March 17, 2020.

\(^ {229}\) Decree of the President of the Council of Ministers of March 4, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/03/04/20A01475/sg.

2.3. Containment Measures Regarding Population

150. In accordance with the Decree of the President of the Council of Ministers of March 9, 2020, a lockdown within the whole national territory was established. It extended the limitations previously provided for certain zones (Decree of the President of the Council of Ministers of March 8, 2020), namely:

- limitation of movement except for proven work needs or situations of needs or for reasons of health;
- absolute prohibition of mobility from one’s home, or dwelling, or residence for those subjected to the quarantine measure or positive to the virus;
- suspension of civil and religious ceremonies, including funeral services.

151. In addition to the above, a ban to assemble, to access parks, public areas, leisure activities in the open air except for physical exercise in the neighborhood of one’s own home, with a distance of at least one meter from any other person, was taken. There was also a ban for individuals to move around by public or private transport to a different municipality from that in which they currently resided (ban extended subsequently to residences other than the main ones).

152. Violation of the lockdown measures exposed an individual to an administrative contravention (from EUR 400 to EUR 3,000), while criminal sanctions were provided for those who failed to comply with the absolute obligation of quarantine when they had been infected. 231

153. Judicial authorities have provided legal assessments on the implementation of measures taken.232 Administrative courts have been called upon to rule on the proportionality and necessity of the measures taken, especially in view of the balance between the right to health and other interests (mainly economic interests). In most cases, judicial authorities expressed an orientation in favor of the legitimacy of the measures. The protection of health can justify the limitation of other rights through measures that have a sunset clause and are necessary and proportionate to the emergency. It is mentioned in the case of the Administrative Court of Lazio Region233 on the legitimacy of a municipality ordinance restricting the opening of commercial activities in which it specified that the public interest in protecting the health of the community prevails over the contested time limits (taking into account the limited duration of the contested measure).

154. Judicial authorities have also provided explanatory statements on the implementation of the measures taken, especially with regard to conflicts of competence between Central State and Regions or local bodies. 234

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232 In order to have a general overview about the claims before the administrative courts related to the measures adopted to tackle the COVID-19 emergency, see URL: https://www.giustizia-amministrativa.it/covid19-focus-covid19.
233 URL: https://www.giustiziaamministrativa.it/portale/pages/istituzionale/visualizza?nodeRef=&schema=tar_rm&nrg=20203463&nomeFile=20200409_05.html&subDir=Provvedimenti.
2.4. Support Measures for Industrial and Non-Productive Sectors

155. The most important decree-laws regarding the measures taken include:

- the Decree "Cura Italia" introducing measures to boost the health sector, to support workers and employers;
- the Decree "Liquidità" (adopted on March 17, 2020, and converted into Law No. 40, dated June 5, 2020) providing for measures to assist businesses by providing loan guarantees, government assumption of non-market risks, and certain targeted tax relief;
- the Decree "Rilancio" (adopted on May 19, 2020) providing for urgent measures to support healthcare, employment, and social policies;
- the Decree-Law No. 52 of June 16, 2020, providing further measures for workers and employers.

Industrial Sector and Non-Productive Sectors

156. The Decree "Cura Italia" provided funding to enterprises that produce medical products. Support measures were taken in favor of the logistics and transportations industry.

157. The Decree "Liquidità" introduced support measures for companies financially struggling due to the COVID-19 crisis. The measures included access to credit, liquidity support, export, internationalization, and investment. Other measures included incentives and contributions for sanitization and increased safety at work, indemnity of self-employed workers, incentives for workers in the entertainment industry and agricultural sector, the possibility for workers who have at least one child under the age of 14 to require a home-office.

158. Companies with foreign shares were also eligible for support measures as long as they were registered and pay taxes in Italy.

2.5. Support Measures for Population

159. The Reddito di Emergenza (REM d.l. 34) is an economic support measure established by Article 82 of Decree-Law No. 34 of May 19, 2020 ("Decreto Rilancio"), in favor of households in difficulty due to the Covid-19 epidemiological emergency.\(^{235}\)

160. The Decree-Law No. 28 of April 20, 2020,\(^{236}\) contains explicit conditions on a COVID-19 tracing app, called "Immuni", in order to manage the phase of the post-lockdown emergency. "Immuni" is voluntary and based on a so-called "contact tracing" system, i.e., digital tracking of contacts between people, aimed at alerting users that they have come into contact with a person infected with the COVID-19. The Data Protection Authority (independent administrative authority responsible for monitoring application of the General Data Protection Regulation (pursuant to Article 51 of Regulation No. 2016/679)) granted the  

\(^{235}\) Decreto Rilancio No. 34 of May 19, 2020. Article 82. URL: https://www.inps.it/docallegatiNP/Mig/Allegati/Brochure_Informativa_REM.pdf.
authorization to use the “Immuni” app, making an overall positive judgment\textsuperscript{237} since it complied with the following criteria:

- the app is used voluntarily;
- the data must be processed exclusively for the purposes indicated by law;
- the app must guarantee the absolute anonymity of users.

161. In Italy, the COVID-19 tracing app is considered a support measure for the population to mitigate the spread of the new coronavirus infection.\textsuperscript{238}

\textsuperscript{237} Data protection authority. Decision on Immuni app. URL: http://images.go.wolterskluwer.com/Web/WoltersKluwer/7bcbf65c6-ffe2-4b95-8931d4e2ac03ee7D_garante-privacy-provvedimento-1-giugno-2020.pdf.

\textsuperscript{238} Immuni – Sito Ufficiale. URL: https://www.immuni.italia.it/.
IV. Spain

162. Spanish legislation does not contain an explicit provision for a "state of emergency".

163. A centralized approach has been applied after a declaration of a state of alarm.

164. A great number of legal acts were adopted to mitigate the spread of the COVID-19 by taking a great variety of measures.

165. The measures taken do not follow the ordinary distribution of powers between the State, the Autonomous Communities, and the local entities.

166. The measures imposed restrictions on fundamental rights and freedoms.

167. A variety of support measures were taken to assist affected industries and the population to overcome the consequences of the COVID-19 crisis.

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

168. Article 116 of the Spanish Constitution of 1978 and the 1981 Organic Law\(^{239}\) provide the possibility for declaration of three different states of emergency: state of alarm, state of emergency, and state of siege.

169. The state of emergency and the state of siege have never been declared.

170. The difference between the state of alarm and the state of emergency is that the former allows the government to "limit" freedom of movement, whereas the latter enables to "suspend" it as well as other fundamental rights in cases of serious disturbances of public order. The distinction between "limitation" and "suspension" is quite relevant, as the legal requirements to declare the state of alarm are less strict than those established for the state of emergency. The declaration of the state of alarm is subject to an ex post parliamentary control, whereas the declaration of the state of emergency requires a previous authorization by the Parliament.

171. A state of alarm must be declared by the Council of Ministers of the central government through a Royal Decree (within 15 days) indicating the measures and effects imposed by this decision. Overall, only central authorities can declare any of the three states of emergency.

172. The prerequisites for declaring a state of alarm are “situations of catastrophe, health crises, paralysis of public services, and shortage of basic necessities”.

173. The state of alarm can only be declared when the competent authorities cannot ensure the return to normality making use of their ordinary prerogatives provided by the 1981 Organic Law.

174. The state of alarm can be declared for all the territory or territorially limited, and the Royal Decree that declares it should establish the competent authorities. In fact, its main outcome is an alteration of the

ordinary distribution of competences, although the central government could appoint regional responsible authorities.

175. The state of alarm can be extended without a time limit and as many times as necessary, but in successive times before the extension, the parliament can propose amendments and not validation a posteriori as in the first declaration.

176. In addition, under Article 86 of the Constitution, in cases of “extraordinary and urgent need”, the Government may issue temporary legislative provisions which shall take the form of Decree laws and which may not affect the regulation of the basic State institutions, the rights, duties, and liberties. The Decree laws must be submitted to the Congress of Deputies and voted within 30 days after their promulgation.

1.2. Pre-COVID-19 Regulatory Framework

177. In Spain, health services lay within the responsibility of regions. Although the central government can pass basic regulations with minimum common standards and coordinate the health system, it only has executive powers over transboundary health issues (e.g., airport entrance control).

178. Organic Law No. 3/1986 of April 14, 1986, on Special Measures in Public Health gives health authorities a very broad power, as it allows them to take any measure “deemed necessary in the event of a transmissible risk” [Article 3]. This law aims to “protect public health and prevent its loss or deterioration”, for which “the health authorities of the various public administrations may, within the scope of their powers, adopt the measures provided for in this Law, when so required for urgent or necessary health reasons”.

179. Central State laws (Act No. 14/1986 of April 25, 1986, on General Health, Act No. 17/2015 of July 9, 2015, on the National Civil Protection System, and Act No. 33/2011 of October 4, 2011, on Public Health) allow health authorities to impose, for instance, personal obligations on retired and trainee health workers, requisition of goods, duties on the population to collaborate with the police, etc. Regional health and emergency laws also contain similar provisions.

180. The Law No. 33/2011 of October 4, 2011 aims to “achieve and maintain the highest possible level of health of the population”, and, specifically, “to lay the foundations for the achievement and maintenance of people’s health at the highest possible level, by means of policies, programs, services and, in general, actions of all kinds carried out by public authorities, companies and citizens’ organizations with the aim of acting on the processes and factors that most influence health, and thus prevent diseases and protect and promote people’s health, both in the individual and collective sphere”. In addition, the the Law 33/2011 grants the powers to the Ministry of Health and General Directorates to take special intervention measures to protect public health, in situations of emergency or need and in the face of extraordinary circumstances.240

181. The 1981 Organic Law also expressly refers in Article 12 to the case of a health crisis, such as epidemics and serious contamination situations that the competent authority may adopt measures “in addition to the measures provided for in the previous articles, those established in the rules for the control of infectious diseases”.

Overall, Spanish health law provides broad extraordinary powers to the relevant (state and regional) authorities, which could be used to deal with pandemics like COVID-19. It is noteworthy that the laws provide conditions for the centralization of powers.

The decrees to mitigate the spread of COVID-19 were adopted according to the state of alarm regime, within the framework of the pre-COVID-19 existing emergency legislation or by using the power of the Government to adopt emergency legislation provided in Article 86 of the Spanish Constitution.

Only one article from the pre-COVID-19 legislation, the Law No. 16/2003 May 28, 2003, on Cohesion and Quality of the National Health System, was modified to improve the coordination between the Ministry of Health and the Autonomous Communities and to strengthen health information mechanisms.

1.3. COVID-19 Regulatory Framework

A great number of new legislative acts and regulations has been adopted in a fast-track during the COVID-19 crisis, but it has mainly focused on approving health containment measures, social measures to alleviate the economic effects, and organizational measures to adapt public services, transport, other establishments open to the public, etc.

The state of alarm declared by the Royal Decree No. 463/2020, changed the distribution of powers between central and regional governments. The decisions were centralized at a state level, specifically the ones under the Ministry of Defense, the Ministry of Transport, and the Ministry of Health and Home Office.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

The first measures were taken by the Autonomous Communities. But it was the Royal Decree No. 463/2020 that declared the state of alert for the management of the health crisis caused by the COVID-19 and established the first general measures. This act was later amended on several occasions to extend the duration of the state of alert by strengthening the requirements for the containment measures and clarifying what activities could be left operational. This act also centralized the decision-making authority in the Ministry of Health to be supported by three other ministries (Interior, Defense, and Transport).

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243 The Official Journal has an online Code with all the legislation passed over these months that keeps track of the intense legal activity. URL: https://www.boe.es/biblioteca_juridica/codigos/codigo.php?id=355.

244 The successive versions of the Royal Decree can be consulted at URL: https://www.boe.es/buscar/act.php?id=BOE-A-2020-3692.
**Transports**

188. Measures on the suspension of international air communication were taken.\(^{245}\) In addition, State-owned road, rail, air, and maritime public passenger transport services reduce their total supply of operations.\(^{246}\)

**Public Health**

189. According to the Royal Decree No. 463/2020, the Minister for Health was allowed to:

- issue orders necessary to ensure the supply of market and operation of services of production centers necessary for the protection of public health and affected by the shortage of products;

- intervene in and temporarily occupy industries, factories, workshops, holdings, or premises of any kind, including privately owned health centers, services, and establishments, as well as those operating in the pharmaceutical sector;

- temporarily requisite all types of goods and impose mandatory personal services in cases where this is necessary for the adequate protection of public health in the context of the health crisis.

**Education**

190. According to the Royal Decree No. 463/2020, all the classroom-based educational activities, including university education, as well as any other educational or training activities provided in other public or private centers are suspended.

191. During the period of suspension, educational activities shall be maintained through online modalities, whenever possible.

**2.2. Containment Measures Regarding Industrial and Non-Productive Sector**

**Industrial Sector**

192. According to the Royal Decree No. 463/2020, all retail premises and establishments were closed to the public (an exception was made for retailers of food, beverages, essential products and goods, pharmacy and healthcare establishments, veterinary centers and clinics, opticians, and sellers of orthopedic supplies, hygienic products, press and stationery, automotive fuels, tobacconists, IT and telecommunications supplies, pet food, e-commerce, telephone or postal sales, dry-cleaners, laundromats, and professional home hairdressing).

\(^{245}\) Orden PCM/205/2020, de 10 de marzo, por la que se publica el Acuerdo del Consejo de Ministros de 10 de marzo de 2020, por el que se establecen medidas excepcionales para, limitar la propagación y el contagio por el COVID-19, mediante la prohibición de los vuelos directos entre la República italiana y los aeropuertos españoles. URL: https://www.boe.es/boe/dias/2020/03/10/pdfs/BOE-A-2020-3433.pdf.

\(^{246}\) For detailed measures in the transport area please refer to Royal Decree No. 463/2020. URL: https://www.boe.es/eli/es/rd/2020/03/14/463/con.

\(^{247}\) Real Decreto No. 463/2020, de 14 de marzo, por el que se declara el estado de alarma para la gestión de la situación de crisis sanitaria ocasionada por el COVID-19. URL: https://www.boe.es/eli/es/rd/2020/03/14/463/con.
Non-Productive Sector

193. According to the Royal Decree No. 463/2020, public access to museums, libraries, monuments, archives, and premises for shows, leisure, sports, festivals, or public events, has been suspended.

2.3. Containment Measures Regarding Population

194. The first measures to fight the COVID-19 were adopted on March 9, 2020, by the Interterritorial Council of the National Health System, a coordination body with the Ministry of Health and regional health peers. Those measures were limited to areas where community transmission was significant at that point (Madrid region, the city of Vitoria, and the small town of Labastida). In these areas, school activities were closed and social distancing was established in the educational and work environment.

195. Between March 8 and 13, 2020, all regions took executive measures, as they were increasingly affected by the expansion of the COVID-19:

- large social gatherings and face-to-face educational activities were suspended;
- sanitary recommendations on hygiene and social distancing were issued;
- forced medical controls, quarantines, requisition of sanitary supplies, the takeover of private hospitals, and regulations on the working conditions of health and emergency personnel were also taken;
- social distancing;
- mandatory mask-wearing on the public sidewalks, in open-air spaces and in enclosed areas for public use or that are open to the public, as well as in transport;
- voluntary use of the COVID-19 tracing app.

196. The increase in the number of infected people, together with the epidemiological projections derived from what was happening in countries where the COVID-19 had arrived earlier, led most of the Autonomous Communities to take successive legal and organizational decisions in a very short time in order to fine-tune their health systems, have the necessary technical and human resources, and confine the sick and the population in general.

197. The ways chosen to convey these measures can be divided into three:

- some Autonomous Communities published Decree(s) and Orders implementing the enabling health laws;
- some approved Agreements of the Government Councils that referred to the health laws and provided specific measures that they publicized in their Official Journals;
- some activated their Emergency Plans by declaring the health emergency as an umbrella for adopting the limiting measures provided for in the emergency legislation.

198. All of these provisions, which are legal and binding, were adopted before the central government approved its first regulations to respond to the health crisis.
On the regional level, the local governments have also taken emergency measures:

- on March 12, 2020, Catalonia activated the emergency phase 1 of its Emergency Plan, and the Generalitat of Catalunya decided on the confinement measures for the municipalities of Igualada, Vilanova del Camí, Santa Margarida de Montbui i Òdena;

- the Basque Country declared a health emergency and activated its emergency plan which provided for the lockdown measures;

- Galicia activated the Territorial Plan of Emergencies of Galicia (Platerga) in its GS level (emergency of Galician scale) that included measures on the warnings, lockdown, or perimetal access control;\(^{248}\)

- Murcia activated the plan for emergencies. It was one of those Autonomous Communities that adopted early measures of confinement “that restrict the freedom of movement” in its coastal municipalities and transferred the measures for judicial ratification;\(^{249}\)

- Andalusia published an Order with measures on public services, public workers, and establishments open to the public.\(^{250}\) It didn’t provide for lockdowns, but it did mention the possibility of adopting intervention measures on goods or persons in case the risk increases.

The need to have judicial confirmation of measures that affect fundamental rights has sometimes led to an extended control or even annulment of other administrative measures regardless of their purely administrative nature with no affection to fundamental rights. For example, that was the case of the judge’s decision not to ratify Madrid’s prohibition to smoke in public premises or streets if social distancing can’t be kept.\(^{251}\) That measure, as a matter of fact, had been agreed as a common unified measure by all the Autonomous Communities along with the central Ministry of Health. The decision was later repealed by the Superior Justice Court of Madrid claiming that no judicial control was needed for those measures as they didn’t affect fundamental rights.

### 2.4. Support Measures for Industrial and Non-Productive Sector

The central government set up a line of guarantees to cover financing granted by financial services.

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\(^{250}\) Junta de Andalucía. Orden de 14 de marzo de 2020, por la que se adoptan medidas preventivas de salud pública en la Comunidad Autónoma de Andalucía como consecuencia de la situación y evolución del coronavirus (COVID-19). Boletín Oficial de la Junta de Andalucía No. 7 de 14 de marzo de 2020. URL: https://www.juntadeandalucia.es/boja/2020/5072.

institutions to companies and self-employed.\textsuperscript{252}

202. Royal Decree-Law No. 25/2020 of July 3, 2020, on urgent measures to support economic recovery and employment creates a new fund of EUR 10 billion managed by the State Industrial Ownership Corporation to provide financial support to solvent strategic non-financial companies that have been particularly affected by the COVID-19 and that request it.\textsuperscript{253}

203. Customs procedures are streamlined in the industrial sector: The Head of the Customs and Special Taxes Department of the State Tax Administration Agency is allowed to agree that customs clearance may be carried out by anybody or official in the area.

204. According to the Royal Decree-Law No. 25/2020, the Royal Decree-Law No. 8/2020 of March 17, 2020, and the Royal Decree-Law No. 17/2020 of May, 5, 2020, the following measures were taken:

\begin{itemize}
  \item loans granted to SMEs in the tourism sector and related activities;
  \item promoting the implementation of new business investment projects, particularly for environmental sustainability and digitalization;
  \item financial support to solvent strategic non-financial companies;
  \item broad package of fiscal measures, aid, and measures to make unemployment coverage more flexible for the cultural sector;
  \item suspension of the regime of liberalization of foreign direct investment in Spain in certain strategic sectors affecting public order, public security, and public health (critical infrastructure; critical technologies and dual-use goods; supply of essential inputs, in particular energy; sectors with access to sensitive information; and media).
\end{itemize}

205. It must be noted that a foreign SME can benefit from this fund if it has its tax residency in Spain.

206. As to a sunset clause, all support measures have an expiry date.

2.5. Support Measures for Population

207. The Royal Decree-Law No. 21/2020\textsuperscript{254} is a government regulation with the status of a law that requires subsequent validation by the Parliament, establishes common measures to adapt activities to what was called a “new normality” (a period of adaptation characterized by the adoption of health

\begin{footnotesize}

\textsuperscript{253} Real Decreto-ley No. 25/2020, de 3 de julio, de medidas urgentes para apoyar la reactivación económica y el empleo, available at \url{https://boe.es/diario_boe/txt.php?id=BOE-A-2020-7311}.

\textsuperscript{254} Real Decreto-ley No. 21/2020, de 9 de junio, de medidas urgentes de prevención, contención y coordinación para hacer frente a la crisis sanitaria ocasionada por el COVID-19. URL: \url{https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-5895}.
\end{footnotesize}
prevention measures). The powers were returned to the Autonomous Communities, but a series of general measures were established.

208. The Royal Decree-Law No. 21/2020 expressly identified the COVID-19 as a disease that must be declared urgent. It also introduces the duty of the Autonomous Communities to provide information when public health emergencies occur, to guarantee adequate coordination between health authorities, and to strengthen the functioning of the National Health System. In addition, they must continue to provide the data necessary for the monitoring and epidemiological surveillance of the COVID-19, as well as the status of care capacity and human and material resource requirements.

209. The following measures were taken to support the population:

- health centers and care centers for the elderly must maintain their activity and may only proceed to partially reduce or suspend it in the terms that the competent authorities allow;
- reduction of working hours;²⁵⁵
- loans granted to self-employed in the tourism sector and related activities, and financing granted to self-employed for the purchase of motorized road transport vehicles for professional use;
- the approval of the Minimum Vital Income;²⁵⁶
- prolongation of leasing contracts, etc.

210. As to a sunset clause, the expiry date for this provision is January 31, 2021.

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V. Sweden

Summary

211. A great number of legislative and regulatory measures have been put into place in Sweden to tackle the COVID-19 pandemic and the economic crisis that it triggered.

212. The measures taken are mainly temporary and of a financial nature, relating to businesses that might suffer economically as a result of the pandemic.

213. New, temporary legislation has been enacted. It is mandatory for owners of restaurants, coffee shops, bars, canteens, and dining places to take measures aimed at disease prevention, such as social distancing.

214. Another category of legislative and regulatory measure relates to employees and making sure that they can stay home if they have symptoms such as cold, cough, or fever, without losing their income and without administrative hindrances, such as easing the requirements to obtain a doctor’s certificate when ill. In this regard, the Government has in some cases been given extended powers to act in the case of extraordinary events, such as quickly making decisions regarding sickness benefits in order to adapt to new situations.

215. Crisis legislation has also been introduced on a more permanent basis. Some enacted laws concern the handling of extraordinary events in peacetime and will apply to future crises.

216. Furthermore, a new permanent law was introduced to give the Government the mandate to temporarily close schools that are a part of the compulsory schooling system due to extraordinary events in peacetime.

1. Public “Emergency” Response Regime

Overview of a State Machinery

217. The Swedish Parliament (the Riksdag) is the highest decision-making body that has the competence to respond to and control communicable diseases. The Riksdag is a sole legislator, i.e., its regulatory competence is superior. It can always intercede by canceling or amending provisions enacted by the Government or any other regulatory body.

218. The Government has the competence to make decisions with or in certain fields without prior authorization from the Riksdag, within its so-called residuary competence. The area of residuary competence primarily includes instructions for State authorities, such as the Public Health Agency or the National Board of Health and Welfare, as well as voluntary charges and subsidies. Nevertheless, the Riksdag can always cancel provisions that were adopted within the Government’s residuary competence. The Government can sub-delegate decision-making in certain areas where this has been authorized by the

257 Here and hereafter this subsection is added for Sweden, the United Kingdom and China due to the complexity of their state machinery and/or legislation hierarchy.
As such, the Government has sub-delegated its competence within the area of communicable disease control and prevention to the PHA and the NBHW.

The PHA is in charge of the Swedish strategy to combat the COVID-19 pandemic. It is, thus, mainly designed and adjusted not by politicians but by expert public servants (in this case epidemiologists). However, the Agency does not act alone. It is the coordinating authority for public authorities at the state, regional and local levels. In the case of a severe health crisis, the PHA cooperates with other agencies, regions, county councils, and municipalities. The Agency is also the national focal point for international organizations, such as the EU and the WHO. Nevertheless, the Government has the overall responsibility for the response and will be the one to be held accountable in any way.

The NBHW plays a coordinating role at the national level when it comes to health and medical care as well as communicable disease prevention in Sweden’s municipalities and regions. The Board has a particular mandate as a coordination body in times of crisis according to the Government regulation with the instruction for the NBHW.

There are 290 municipalities and 21 regions in Sweden. They play an important part in the public administration and have their own competences within their respective geographical areas, which includes crisis management. These competences are regulated by fundamental law and by the Riksdag. What concerns the pandemic, such local governments may respond to it in accordance with their mandates and the severity of the situation, as well as the guidance provided by the Government.

Within the field of health care, the Regions are mainly responsible for health care and hospital care.

The Medical Officer of the Region is in charge of disease control and prevention. Municipalities, on the other hand, are chiefly responsible for the care of the elderly and the disabled, home health care, rehabilitation, and school health care. Communicable disease prevention and control at the municipal

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261 The solidarity principle laid down in article 2 of the Treaty of the European Union is also an important part of Swedish crisis readiness.
264 Förordning (2015:284) med instruktion för Socialstyrelsen. § 8. During the COVID-19 pandemic the NBHW has played a central role in, for instance, purchases of medical supplies and personal protective equipment and establishes a national coordination mechanism for intensive care unit beds. In this capacity the Board has collaborated with other authorities such as the Swedish Armed Forces, Swedish Civil Contingencies Agency as well as public organisations such as the Red Cross.
267 Ibid. Chapter 12.
level is generally handled by the Environmental and Health Committee. The MOR is in charge of the coordination and cooperation of the work with disease control and prevention at this level.

### 1.1. Constitutional Framework


225. In addition, there is the Riksdag Act (2014:801) of 2014, which can be described as a hybrid and contains both provisions with a fundamental legal status as well as of "ordinary" legal status.

226. The fundamental laws of Sweden do not stipulate any right concerning a declaration of a state of emergency regarding a civilian crisis. Such a crisis is to be handled in accordance with the Constitution and the law.

227. In other words, the Constitution does not provide for the possibility to declare a state of emergency due to crises in peacetime. And it does not provide a framework for a general emergency act in ordinary legislation.

228. If the Government is forced to act swiftly in an emergency situation, such actions can be evaluated by the Riksdag afterward. There is thus no possibility for the Government to declare a full state of emergency and the Government will be held accountable directly by the Riksdag.

229. As for the terms, the general term "pandemic readiness" is used, and such readiness is assessed through the phases developed by the WHO, which is the interpandemic phase, the alert phase, the pandemic phase, and the transition phase. During the interpandemic phase, the focus is on strategy and securing a sufficient level of readiness. During the alert phase, surveillance, risk assessments, and escalation of measures for communicable disease prevention and control are crucial. The transition phase is characterized by a decrease in response as well as recovery activities.

230. As regards the constitutional dimension, the term "constitutional readiness" is also used. It means that "a civilian crisis in peacetime is to be handled according to the ordinary legislative procedure. As a rule, the principle of legality is guaranteed even in times of crises. Only in concrete and specific situations can the constitutional right of necessity be invoked according to constitutional custom."

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231. It is noteworthy that all competent authorities are involved during a pandemic. Apart from the Riksdag and the Government, authorities at both state, regional and municipal levels are obliged to cooperate in times of crisis (paras. 217–223 of Annex 3).

1.2. Pre-COVID-19 Regulatory Framework

232. The Communicable Diseases Act (2004:168),\(^{273}\) which came into force in 2004, is the law on protection against infectious diseases.\(^{274}\)

233. The CDA classifies diseases into 3 categories:

- contagious diseases. These are diseases that can be transmitted to or between people and can pose more than insignificant threat to human health;\(^{275}\)

- diseases dangerous to public health. These are diseases that can be life-threatening, involve long-term illness or severe suffering or have other serious consequences;\(^{276}\)

- diseases dangerous to society. These are diseases that can spread in society and cause a serious disturbance or imminent risk of a serious disturbance in important societal functions and which require extraordinary infection control measures.\(^{277}\)

234. These diseases must be reported and are subject to "contact tracing".\(^{278}\)

235. The Government declared the COVID-19 as a "Public Health Hazard" — "a disease that is dangerous to public health and society" — on February 2, 2020, based on a recommendation of the Public Health Agency.\(^{279}\)

236. This was later approved by the Riksdag and, hence, added to the list of such diseases in Annex to the Communicable Diseases Act.\(^{280}\)

237. This means that the PHA and the medical officers of the regions are able to take "extraordinary measures" concerning disease control (for example, coercive measures regarding individuals, such as health control, isolation, and travel bans).

238. The CDA does not contain the term "state of emergency" or "health emergency", however, it provides the term "extraordinary situation". This means that the Government may issue special regulations

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\(^{276}\) Ibid. Chapter 1.3. Para. 2.

\(^{277}\) Ibid. Chapter 1.3. Para. 3.

\(^{278}\) Ibid.


on disease control if in a state of war or a danger of war. Hence, this term is not related to a health emergency.

239. As to a sunset clause, there are no specific time limits, since there are no general rules that permit a declaration of emergency. Nevertheless, if there is a disease that is dangerous to public health and society, the competent authorities will be able to take extraordinary measures for disease control in accordance with the law until the threat is over, e.g., when a vaccination program can be put in place.

240. In the Act on Municipalities and County Councils Measures Ahead of and During Extraordinary Events During Peace Time and Times of High Preparedness (2006:544) the term “preparedness for extraordinary situations” is established.

241. This means such a situation “that deviates from the norm, entails a serious disturbance or imminent risk of a serious disturbance in important societal functions and requires urgent action by a municipality or a region”.

242. This definition relates to peace times as well as to high preparedness times. The powers are distributed between the authorities at different levels.

243. According to the High Preparedness Act, municipalities and regions shall analyze which extraordinary situations in peacetime may occur in the municipality or region and how these events may affect their own activities. Municipalities and regions must also, taking into account the risk and vulnerability analysis, establish a plan for each new term of office for how to handle extraordinary situations.

244. The Government or the authority determined by the Government may issue more detailed regulations on risk and vulnerability analyzes as well as plans for the handling of extraordinary situations.

245. During high preparedness time, municipalities and regions should make the necessary preparations for action. The municipal council is responsible for managing the part of the civil defense that the municipality is required to carry out. Whereas the regional council is responsible for civil health management and other civil defense activities that the region must undertake.

246. Overall, due to the decentralized structure of the Swedish state machinery, the role of regions and municipalities regarding crisis management is prominent. They are responsible for making sure their geographical areas have sufficient readiness to cope with extraordinary situations.

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281 See the CDA. Chapter 9. Para. 5.
283 Ibid. Para. 4.
285 Ibid.
286 Ibid. Chapter 3.
The cooperation between different competent authorities shall be headed by a coordinating authority. Coordinating authorities regarding public health crises, such as the COVID-19 pandemic, is the Public Health Agency\textsuperscript{287} and the National Board of Health and Welfare.\textsuperscript{288}

**1.3. COVID-19 Regulatory Framework**

The Constitution as well as laws in general have to be followed even during a civilian crisis such as the COVID-19 pandemic.

Otherwise, there is only one new law related to the COVID-19 pandemic in Sweden, which was introduced in March 2020 in order to give the Government the mandate to temporarily close schools that are part of the compulsory schooling system due to extraordinary events in peacetime.\textsuperscript{289}

It is noteworthy that this law was adopted in an accelerated mode. Also, it was adopted as permanent and it will be applied to a future possible crisis as well.

**2. Measures Taken in the Fight Against the COVID-19 Pandemic**

The Swedish strategy in response to the COVID-19 pandemic is focused on personal and shared responsibility.\textsuperscript{290} The recommendations regarding the measures were issued by the PHA. Therefore, measures have principally been taken through Government regulations and recommendations from public agencies.

The Communicable Diseases Act and the Ordinance with Instruction for the PHA have played a key role in Sweden’s response to the pandemic.

Limited temporary legislation has been introduced, such as a law regulating disease control and prevention in dining places and alike.

**2.1. General Measures**

*Transport*

Sweden introduced a ban on non-essential travel to it from countries outside the EU. The entry ban does not apply to citizens or their families of EU/EEA countries, the UK, Switzerland, Andorra, Monaco, San Marino, the Vatican, or to travels to Sweden from the EU/EEA area.

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\textsuperscript{287} Ordinance with instruction for the Public Health Agency (2013:1020). Para. 8.


\textsuperscript{289} Lag (2020:148) om tillfällig stängning av verksamheter på skolområdet vid extraordinära händelser i fredstid. The law was initiated by the Committee of Education of the Riksdag by recommendation of the government, 2019/20: UbU25.

Public Health

On March 20, 2020, the Government introduced a ban on visits to nursing homes in order to protect individuals living in those homes, who are considered as risk groups.291

Education

Distance education for secondary schools and partial closure of universities was introduced.292 On March 13, 2020, within its residual competence, the Government decided that higher education and upper secondary schools (gymnasium) would provide distance education for reasons of disease control. Preschools and compulsory schools have largely functioned as usual due to the fact that small children are less likely to spread the virus. The Government has also pointed out that it is important to make sure that parents working in hospitals, care homes, or other businesses important to the critical infrastructure of the country have access to the necessary childcare.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

No containment measures were taken regarding industrial and non-productive sectors due to the COVID-19 crisis.

2.3. Containment Measures Regarding Population

Initially, the Government banned public gatherings of 500 people, but this number was changed to 50 people during the course of the pandemic.293 The competent authorities, such as the PHA, have issued several recommendations on how to implement the ban.

A temporary law has been enacted, creating legal obligations for owners of restaurants, coffee shops, bars, canteens, or dining places to provide conditions for social distancing, organize entry lines, facilitate handwashing, etc.

As to a sunset clause, the measures taken have an expiry date. Most of them are to expire on December 31, 2020.

Supervision is carried out by the municipalities as part of their respective mission regarding disease prevention and control, if necessary, with police assistance. Due to the strained economic situation for the restaurant industry in general, business owners are not required to pay a fee for the supervision, which is normally required in regard to this type of control.294

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292 Förordning (2020:115) om utbildning i visa skolformer i skolväsendet vid spridning av viss smitta.
262. Evaluation measures have also been taken. The general idea is that the Swedish response has to be continuously evaluated by an audit commission, together with different experts and scientists in different fields, to scrutinize the overall response to the COVID-19 pandemic. 295

263. For the moment there is no public information on any claims lodged to a court concerning the containment measures taken to mitigate the COVID-19 crisis.

2.4. Support Measures for Industrial and Non-Productive Sectors

264. Since Sweden has remained an open society, business life has been able to continue albeit in a more limited manner, because of many different factors, for instance, social distancing requirements and differences in the response to the pandemic internationally.

265. Numerous measures have been taken to support businesses during the COVID-19 crisis. In some cases, legislation enacted during former times of crisis has been re-used. 296 An example of this is a law regulating the deferral of payment of taxes in other situations than regulated in the ordinary legislation, which was reenacted, albeit with some modifications. 297

266. Conversion Aid Act (2020:548) and the adhering ordinance were introduced on July 1, 2020. 298 This act aims at compensating businesses for turnover losses and reorientation support, for example, to simplify a shift in production for a company or for a restaurant to direct its activities to take-away services. 299 In order to receive conversion aid, the company must meet certain requirements and demands. The company needs to have business in Sweden or be approved for a so-called F-tax certificate in the country. Companies which are registered in certain States that are on the EU list of non-cooperative jurisdictions for tax purposes are not eligible for conversion aid. 300

267. A temporary increase of a short-time work allowance was adopted. The Swedish short-time work allowance system means that employers can “reduce the employees’ working hours and receive financial support from the Government to compensate for retaining the employee”. The purpose of the program is to encourage diligent employers to keep their employees instead of making them redundant, which will decrease costs for hiring anew when the crisis is over.

295 Mats Melin leder coronakommissionen. Publicerad 30 juni 2020. URL: https://www.regeringen.se/pressmeddelanden/2020/06/mats-melin-leder-coronakommissionen/. Also, a report on 1,700 nursing homes by the Health and Social Care Inspectorate was presented on July 7, 2020. It found that: a) 70% of the deaths due to the COVID-19 occured in only 40 municipalities; b) 91 nursing homes had severe problems and will be the object of further supervisory measures.


297 Lag (2009:99) om anstånd med betalning av skatt i vissa fall; 2019/20:132. P. 32–35. The Committee on Finance of the Riksdag contributed to important modifications in this proposal. Taxpayers will pay a deferral fee when granted a deferral of payment of taxes. The Committee pointed out that the deferral fee is equated to an interest rate of 6.6%, which it did not deem proportionate in the present context and due to the current low interest rates on the market. It made a demand to the Government to make the necessary changes in this regard and adjust the deferral fee to prevalent interest rates on the market (2019/20: FiU51. P. 5, 12).


300 Lag (2020:548) om omställningsstöd, § 3 sec. 3; Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes (2020/C 64/03).
Employers’ social security contributions due to the COVID-19 disease were temporarily reduced. The reason for this was to alleviate the economic consequences of the COVID-19 and keep unemployment levels down.\(^{301}\)

The central Government public loan guarantee program was put in place. The purpose of the program is to make it easier for SMEs primarily to access financing, meaning that the Government will guarantee 70% of any new loans that banks provide to companies struggling financially due to the COVID-19 crisis. A limit has been set at 75 million SEK per borrower.\(^{302}\)

### 2.5. Support Measures for Population

The Swedish Social Insurance Agency, the NBHW, and the National Board for Dialogue and Consultation between the Government and Civil Society are empowered to take support measures for the population.

The PHA recommends that people stay home if they feel unwell with cold symptoms, cough or fever, for as long as they feel unwell to prevent the COVID-19 from spreading.

Those infected are to be compensated for a lack of income for the time when they were forced to stay home (such individuals are entitled to a disease carrier’s benefit for employees regulated in Chapter 46 of the Social Insurance Code).\(^{303}\)

Due to the COVID-19 pandemic, some permanent adaptations have been made to the Social Insurance Code (2010:110) to make sure that the Government can make swift decisions regarding parental allowance, sickness benefit, disease carrier’s benefit for employees, etc., in the case of extraordinary events.\(^{304}\) The Government has used these new competences to make certain decisions, for example, those relating to individuals belonging to a risk group\(^{305}\) to be able to receive a preventive sickness benefit in order to be able to afford to stay at home. There is also an ongoing inquiry into introducing benefits for individuals who have family members being part of a risk group.

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\(^{302}\) Prop. 2019/20:142; information in English has been published on the Government webpage: [https://www.Government.se/articles/2020/03/proposed-central-Government-loan-guarantee-programme-for-small-and-medium-sized-enterprises/](https://www.Government.se/articles/2020/03/proposed-central-Government-loan-guarantee-programme-for-small-and-medium-sized-enterprises/); Lind 2020, p. 1131. Lind points out that the Government has clearly stated that loan guarantees will not be granted or upheld if it is used for bonuses, variable remuneration to senior management, or profit distribution. There are also demands that the companies have well managed finances and reasonable tax debts. This underlines that tax-evading companies are excluded from such aid measures, see Lind 2020. P. 1132–1133.


\(^{305}\) The National Board of Health and Welfare has been given the mission to identify these risk groups by the Government in April 2020; Socialstyrelsen, *Uppdatering av tidigare rapport gällande identifiering av de riskgrupper som löper störst risk att drabbas av ett särskilt allvarligt sjukdomsförlopp vid insjuknande i covid-19*, 2020-06-02.
VI. The United Kingdom

Summary

274. Since there is no written or official Constitution in the UK, there is, therefore, no formal part of a constitution which regulates emergencies. Instead, the UK responds to the COVID-19 pandemic under its pre-existing and new laws adopted in response to coronavirus.

275. The legal response can be characterized by the use of legislation as an instrument to achieve the policy goals of reducing the virus spread and mitigating its economic effects. Nearly everything that restricts individual liberty is done through legislation. Even those things that start off as guidance quickly become law. No extra-legal measures have been taken, and nothing has been done outside the law.

276. There is the Civil Contingencies Act, which is designed specifically to be used during an emergency. At the same time, the Government decided not to use this act. Instead, it passed new legislation and relied on a minor power in the Public Health (Control of Disease) Act 1984 to make emergency public health regulations.

277. There has been a plethora of measures put in place by the Government and public entities, such as the Bank of England, to provide financial support for individuals and companies affected by the COVID-19 crisis.

1. Public “Emergency” Response Regime

Overview of a State Machinery

278. The UK comprises four separate nations: England, Wales, Scotland, and Northern Ireland. Each nation also has the ability to pass laws for itself. In this light, a brief description of the hierarchy of norms in the UK is necessary.

279. The highest level is an Act of Parliament. This is a piece of primary legislation passed by the UK Parliament.

280. The next level is primary legislation passed by the legislatures of the devolved jurisdictions: these are an Act of the Northern Ireland Assembly, an Act of the Scottish Parliament, and an Act of Senedd Cymru (previously referred to as an Act of the National Assembly for Wales). There is no separate legislature for primary legislation for England which is simply an Act of Parliament.

281. The next level is secondary legislation. This is legislation made by a Minister or a Department under the authority of primary legislation (it can only be made if a primary legislation authorizes it). The most common form for secondary legislation is “regulations”, but they can also be referred to as subordinate legislation, delegated legislation, statutory instruments, statutory rules, or orders in council (depending upon the precise way that it is made). Secondary legislation can be made by the UK Government, or by the Governments of Northern Ireland, Scotland, or Wales.

1.1. Constitutional Framework

282. There is no written or official Constitution in the UK. Instead of a codified constitution, the UK has what may be termed an informal or uncodified constitution. This consists of statutes which have come to be regarded as having constitutional significance. This is not a formal status, instead, it is an informal appellation given to them by courts, politicians, and academics over time. The uncodified constitution also consists of court decisions and academic works which are regarded as constitutionally important by virtue
of a legal consensus. Within the uncodified constitution, there is nothing which seeks to regulate emergencies.

1.2. Pre-COVID-19 Regulatory Framework

283. The Civil Contingencies Act is the key law. This is an Act of Parliament, and it applies across the whole of the UK.\textsuperscript{304}

284. This act applies to what are termed “emergencies”. An “emergency” in Sections 1 and 19, \textit{inter alia}, means “an event or situation which threatens serious damage to human welfare in a place in the United Kingdom; an event or situation which threatens serious damage to the environment of a place in the United Kingdom, etc.” It is also noted that an event or situation threatens damage to human welfare only if it involves, causes or may cause, among others, loss of human life, human illness or injury. The event or situation mentioned may occur inside or outside the UK.

285. There is no general power to declare an emergency, and nor is there any requirement for such a declaration before emergency powers are exercised. As long as the conditions for an emergency are satisfied, there is no need to formally declare an emergency. A Minister (either UK-wide, or for Wales, Scotland, and Northern Ireland) has a power by order to specify that a particular thing is or isn’t an emergency.\textsuperscript{307} However, this isn’t a power to declare an emergency, instead, it is about clarifying whether a certain event falls within the definition of an emergency.

286. There is a minor additional power which applies in cases of “urgency”. The criteria are that there is “an urgent need” but that there is “insufficient time” for the regular procedure to be followed.\textsuperscript{308} This is a limited power which means that a Minister can do something by way of a written direction, rather than doing them by regulations. A “direction” will have the force of law for this purpose, but it does not fall within the normal hierarchy of norms. The rules for this urgency procedure are set out in Section 7 for England and Northern Ireland, Section 8 for Scotland, and Section 8A for Wales. This urgency provision mainly deals with administrative matters within government.

287. The Civil Contingencies Act sets out obligations to prepare for an emergency, and it also allows for normal government powers to be re-allocated to different branches of government during an emergency. But the key powers which apply during an emergency are set out in Part 2 of the act.

288. The most important power is a power to make emergency regulations.\textsuperscript{309} These can either be made by way of Order in Council (meaning they are made in the name of the Crown) or by a senior Minister of the Crown. A senior Minister means the Prime Minister, the Chancellor of the Exchequer, or a Secretary of


\textsuperscript{307} Ibid. Section 1(4).

\textsuperscript{308} Ibid. Section 7.

\textsuperscript{309} Ibid. Section 20.
State — in essence, the most senior members of the UK Executive. They can only be made by a senior Minister of the Crown, if it is not possible to make them by way of Order in Council without a serious delay.310

289. There are three conditions which must be met for making emergency regulations set out in Section 21 of the Civil Contingencies Act:

- an emergency has occurred, is occurring, or is about to occur;
- it is necessary to make provision for the purpose of preventing, controlling, or mitigating an aspect or effect of the emergency;
- the need for provision is urgent.

290. Section 27 of the Civil Contingencies Act sets out the procedure for scrutiny of the emergency regulations. After being made by the UK Executive, they must be laid before the UK Parliament as soon as it is reasonably practicable. They will automatically lapse 7 days after they are laid before the Parliament, unless the Parliament approves them. The Parliament has the power to pass a resolution negating the regulations, which has effect from a date specified by the Parliament (although they cannot retrospectively invalidate them). Parliament can also amend the emergency regulations — this is very unusual as in normal practice the Parliament only accepts or rejects secondary legislation, it never amends it. If the Parliament is prorogued or adjourned during this time, then there is an obligation to recall it in order to consider the emergency regulations.311 These emergency regulations can only be made by a Minister of the UK Executive. However, if they relate to Scotland, Wales, or Northern Ireland, a senior minister of those jurisdictions must be consulted by the UK Executive.312

291. The UK Government must appoint Emergency Coordinators for each part of the UK, as well as Regional Nominated Coordinators for each region in which the emergency regulations are to have effect.313

292. What concerns a sunset clause, there is no requirement on the length of a state of emergency, as there is no formal declaration of a state of emergency. However, there is a time limit on the duration of emergency regulations. Those automatically lapse 30 days after they are made, but they can be remade without any limitation.314

293. It should be noted that the Civil Contingencies Act has not been used as a basis for the response to the COVID-19 pandemic.

310 A serious delay is defined in Section 20(4) of the Civil Contingencies Act 2004 as a delay that might (a) cause serious damage, or (b) seriously obstruct the prevention, control or mitigation of serious damage. Regardless of the way that the regulations are made, Section 20(5) requires that they must contain a statement, made by the person making the regulations, (a) specifying the nature of the emergency in respect of which the regulations are made, and (b) declaring that the person making the regulations — (i) is satisfied that the conditions in Section 21 are met, (ii) is satisfied that the regulations contain only provision which is appropriate for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency in respect of which the regulations are made, (iii) is satisfied that the effect of the regulations is in due proportion to that aspect or effect of the emergency, (iv) is satisfied that the regulations are compatible with the Convention rights (within the meaning of Section 1 of the Human Rights Act 1998).


312 Ibid. Section 29.

313 Ibid. Section 24.

314 Ibid. Section 26.
Public Health Act applies only to England and Wales. It is designed to cover normal public health matters, but it also contains some provisions which can apply in relation to emergencies.

There are two broad powers under this act:

- a power of the Government to make public health regulations. There are two different types of regulation: (a) international travel regulations and (b) domestic health protection regulations. The international travel regulations are made in respect of vessels, aircrafts, trains, etc. and are designed to stop the spread of disease into a country. The criteria for domestic health protection regulations is that they are “for the purpose of preventing, protecting against, controlling or providing a public health response to the incidence or spread of infection or contamination in England and Wales [whether from risks originating there or elsewhere]”. Measures in domestic health protection regulations must be proportionate. The more serious restrictions on personal liberty cannot be made under the domestic health protection regulations unless the regulations are made “in response to a serious and imminent threat to public health”. Under the ordinary procedure for making these regulations, a draft must be laid before the Parliament (in the case of English regulations) or the Senedd Cymru (in the case of Welsh regulations), and the regulations will not take effect unless they have been approved by those legislatures. Under the urgent procedure (which can be used if a Government Minister declares that it is necessary to use the urgent procedure) these Regulations must still be laid before the legislature, but come into force before the legislature has voted to approve them.

- a power of a justice of the peace to make an order in respect of an individual. Any offenses created cannot be punishable by a sentence of imprisonment, only a fine, and there are limitations on the size of that fine.

Justice of the peace orders have not been used in respect of the COVID-19 pandemic, and only public health regulations were used so far.

**1.3. COVID-19 Regulatory Framework**

In response to the spread of the COVID-19, the UK Parliament enacted the Coronavirus Act 2020 and the Scottish Parliament enacted the Coronavirus (Scotland) Act 2020 and the Coronavirus (Scotland) (No. 2) Act 2020. These are all pieces of *primary legislation* made as a direct consequence of the COVID-19 pandemic.

The Coronavirus Act 2020 was made under the accelerated procedure, which meant it passed through all its parliamentary stages in under 1 week. Most acts take several months, at least, to go through all their parliamentary stages. It applies through the UK.

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315 Ibid. Section 45B.
314 Ibid. Section 45C.
317 Ibid. Section 45D(1).
318 Ibid. Section 45D(4).
319 Ibid. Section 45Q.
320 Ibid. Section 45R.
321 Ibid. Section 45F(5) and (5A).
322 For description of newly adopted legislation see, for example, Cormacain R. Op cit. P. 248–249, 252–254, 256–263.
Although many provisions of the Coronavirus Act 2020 are called “emergency” or “temporary” provisions, there is no express definition of the “emergency”.

The Coronavirus Act 2020 does not make any changes to the official bodies charged with implementing laws, but it does temporarily release them from some of their duties. The basic thrust of this act is to streamline official obligations in order to make it possible for the Government to continue to act during the pandemic. These changes are all expressly set out as temporary modifications of ordinary laws, expiring in accordance with the sunset clauses referred to above (para. 292 of Annex 3 to the Analytical Report).

In addition, the Coronavirus Act 2020 made specific provisions for Scotland which replicated the powers in the Public Health Act and essentially grant the Scottish Government the exact same powers that the English and Welsh Governments had under the Public Health Act to make public health regulations. It also granted the same powers in respect of justice of the peace orders that existed in England and Wales under that act.

Finally, the Coronavirus Act 2020 made similar provisions for Northern Ireland, enacted changes to the Public Health Act (Northern Ireland) 1967. These changes were essential to grant the Northern Ireland Government the exact same powers that the English and Welsh Governments had under the Public Health Act to make public health regulations. It also granted the same powers in respect of justice of the peace orders that existed in England and Wales under that act.

As for a sunset clause, there are a number of provisions which limit the duration of the Coronavirus Act 2020. As such:

- Section 89(1) states that the act expires 2 years after it is made. Although some of the administrative provisions continue to stay in force after that date;
- Section 90 grants the power to alter that expiry date. The Government may by regulations shorten or extend, but only by up to 6 months, that expiry date in relation to specific provisions. The power to extend may be repeatedly made, although each individual extension may only be for up to 6 months. If the Government makes regulations extending the expiry date, those regulations must be laid before the Parliament. The extension is lawful as soon as the regulations are made, but the extension will lapse unless it is approved by the Parliament within 40 days. Alternatively, the Government can lay a draft of the regulations before the Parliament, which can approve that draft;
- Section 98 sets out a procedure for a 6-month Parliamentary review. If the Parliament refuses to assent to a motion calling for the act to continue, then the Government must take action under Section 90 to make the act expire early. This procedure is repeated every 6 months.

Coronavirus (Scotland) Act 2020 was passed by the Scottish Parliament and is similar in scope to the Coronavirus Act 2020. It only applies to Scotland.

It has an express sunset clause in Section 12, and it was due to expire on September 30, 2020. The Scottish Ministers can by regulations extend this to March 31, 2021, and can further extend it to September 30, 2021. There is a power to bring forward this expiry date by regulations, meaning it can expire sooner than this. There is no criteria for the decision to extend the duration of the act, although the Scottish

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Ministers must state their reasons for any extension. Every 2 months, the Scottish Ministers must report to the Scottish Parliament on the status of the act, and the appropriateness of that status.

306. Coronavirus (Scotland) (No. 2) Act 2020 supplements the Coronavirus (Scotland) Act 2020, makes further temporary modifications to other laws in the same way as the Coronavirus (Scotland) Act 2020 did, and also only applies to Scotland. It also has sunset provisions similar to those in the Coronavirus (Scotland) Act 2020.

307. In Northern Ireland, the Assembly has not enacted any primary legislation concerning the pandemic. Nor are there any proposed bills on the subject before it.

308. In Wales, the Senedd Cymru has not enacted any primary legislation concerning the pandemic. Nor are there any proposed Bills on the subject before it.

309. There has been a huge number of pieces of secondary legislation made in response to the COVID-19. The social distancing regulations have had the most impact upon the population as a whole. These are the regulations which give effect to the lockdown. There is then a large number of other COVID-19 related regulations.

310. A summary of the social distancing regulations is set out in the table below. These regulations curtail personal liberties: preventing citizens from leaving their houses, shutting down businesses, etc. The table illustrates a decentralized mode of taking the decisions in relation to secondary legislation.

<table>
<thead>
<tr>
<th>Name</th>
<th>Date made</th>
<th>Extent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Health Protection (Coronavirus, Restrictions) (England) Regulations 2020</td>
<td>March 26, 2020</td>
<td>England</td>
</tr>
<tr>
<td>Health Protection (Coronavirus, Restrictions) (England) (Amendment) Regulations 2020</td>
<td>April 21, 2020</td>
<td>England</td>
</tr>
<tr>
<td>Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020</td>
<td>May 12, 2020</td>
<td>England</td>
</tr>
<tr>
<td>Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 4) Regulations 2020</td>
<td>June 12, 2020</td>
<td>England</td>
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<td>Wales</td>
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<tr>
<td>Health Protection (Coronavirus Restrictions) (Wales) (Amendment) Regulations 2020</td>
<td>April 3, 2020</td>
<td>Wales</td>
</tr>
<tr>
<td>Regulation Description</td>
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<tr>
<td>--------------------------------------------------------------------------------------</td>
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<tr>
<td>Health Protection (Coronavirus Restrictions) (Wales) Amendment (No. 2) Regulations 2020</td>
<td>April 24, 2020</td>
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<td>May 11, 2020</td>
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<td>Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020</td>
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<td>May 15, 2020</td>
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<td>Health Protection (Coronavirus, Restrictions) (Amendment No. 3) Regulations (Northern Ireland) 2020</td>
<td>May 19, 2020</td>
<td>Northern Ireland</td>
</tr>
</tbody>
</table>

311. The English and Welsh regulations were made under the Public Health Act. The Scottish regulations were made under the Coronavirus Act 2020. The Northern Irish regulations were made under the Public Health Act (Northern Ireland) 1967.

312. All regulations contain an express sunset clause which states that they automatically expire 6 months after they are made, or more precisely, 6 months from the date the “original” regulation in each jurisdiction was made.

313. As of December 2020, there are more than 200 pieces of secondary legislation on the official government website with the word “coronavirus” or “COVID” in the title. 325

325 The Official website of the UK legislation. URL: www.legislation.gov.uk.
314. Besides social distancing regulations, they include regulations on restrictions on business and public gatherings, self-isolation, track and trace, and many others.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

315. There have been a wide variety of different measures taken in a variety of fields in the UK. These measures cover the breadth of the regulatory spectrum — meaning that they are primary and secondary pieces of legislation ("hard law"), financial measures (taxes, subsidies), official guidance and advice ("soft law").

2.1. General Measures

Transport

316. The Foreign & Commonwealth Office has advised against all but essential travel. At the international level there have been some basic restrictions introduced for persons traveling to the UK, for example, that they fill in a form stating where they are coming from and where they are staying.

317. A requirement to wear face coverings whilst using public transport in England to protect against the risks to public health arising from coronavirus, except in certain limited cases, was introduced, for example, by the Health Protection (Coronavirus, Wearing of Face Coverings on Public Transport) (England) Regulations 2020.

Public Health

318. A multiplicity of measures has been taken in this sphere, both in primary legislation and secondary legislation.

319. Measures were taken in relation to hospitals, in order to secure National Health Service and care capacity, including the procurement of personal protective equipment, improving testing and tracking.

Education

320. Sections 37 and 38 of the Coronavirus Act 2020 provided for the closure of educational establishments. Minister and devolved administrations give directions for the restriction of attendance at educational institutions.


328 Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020 (SI 2020/1005) ("the Track and Trace Regulations"), see: 27th Report, Session 2019-21 (HL 131).


332 See, e.g., the Health Protection (Coronavirus, Restrictions) (England) (Amendment) (No. 2) Regulations 2020.
2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

321. Containment measures as they relate to businesses and commercial undertakings in the UK are normally referred to as the social distancing regulations or the lockdown regulations. These laws are designed to stop the spread of the disease by shutting down shops and businesses.

322. The laws have been made under the authority of Public Health Act (for England and Wales), Coronavirus Act 2020 (for Scotland), Public Health Act (Northern Ireland) 1967 (for Northern Ireland).

323. The principal regulations are the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, the Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020, and the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020.

324. In addition, there has been one “local lockdown” which only applied in a particular area. This was contained in the following Regulations, also made under the Public Health Act, — the Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020. 333

325. These regulations have been made separately by the Governments of the 4 nations of the UK, although there is a considerable degree of symmetry between them.

*Industrial Sector*

326. All businesses (in England, Wales, Scotland, and Northern Ireland) which were open to the public were obliged to shut down, unless they were included in a list of exempt businesses. As the pandemic receded, the list of businesses which had to shut was reduced.

*Non-Productive Sector*

327. All businesses (in England, Wales, Scotland, and Northern Ireland) which were open to the public were obliged to shut down, unless they were included in a list of exempt businesses (these providing essential services or selling essential goods, e.g., food retailers, including food markets, supermarkets, convenience stores and corner shops, pharmacies and chemists, homeware, building supplies and hardware stores, funeral directors and many others).

328. Places that were obliged to shut down included:

- businesses selling food and drink for consumption in the premises. There were exemptions for those that could sell food and drink for consumption off the premises (such businesses could remain open);
- businesses which provided services or sold goods that could be described as non-essential — cinemas, theaters, nightclubs, etc.;
- businesses offering holiday accommodation;
- places of worship;

333 For detailed analysis of the Leicester lockdown, see Cieslak E. Getting the timing right — a review of the Leicester lockdown Regulations // UK Constitutional Law Blog. URL: https://ukconstitutionallaw.org/.
• businesses operating a library service except for orders that it received remotely and where it then delivered those orders to its clients.

329. There was also a residual category of businesses that were not specifically covered by law, i.e., there was no express law stating that such businesses must shut or that they must remain open. This category included, for example, factories, constructions work, house building, and in very broad and non-technical terms could be described as an industrial sector. In this regard, in accordance with normal constitutional practice in the UK, if there is no rule prohibiting it, it remains lawful. This means those businesses could remain open.

330. Non-compliance with the regulations is a criminal offense. The only punishment is a fine not exceeding level 5 on the standard scale, which currently amounts to 5,000 GBP. A person cannot be imprisoned for non-compliance. The 5,000 GBP maximum fine can only be imposed by a court.

331. As to a sunset clause, the regulations contained a 6-month expiry clause, as well as an obligation upon the Executive of each part of the UK to review them every 21 or 28 days to determine if they were still necessary.

2.3. Containment Measures Regarding Population

332. In the UK these are normally referred to as the social distancing regulations, or the lockdown regulations.

333. The principal regulations are the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020, Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations 2020, Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020. Those are amended frequently, and there is a symmetry between them.

334. The containment measures for the general population include, but are not limited to:

• restriction of movement. Initially, no person could leave the place where they were living without a reasonable excuse. Reasonable excuse was defined to include things like: shopping to buy necessities, taking exercise alone or with other members of a household, providing care to vulnerable people, accessing critical public services, etc.;

• restriction on staying overnight in a house other than your own unless you have a reasonable excuse;

• restriction on public gatherings. Initially, no more than 2 people could gather in a public place;

• restrictions on close contact between individuals.

335. Non-compliance with the regulations is a criminal offense which is normally dealt with by way of a fixed penalty notice.

336. As to a sunset clause, these regulations have a 6-month expiry clause and a 21- or 28-day review clause.

337. This is a summary outline of the taken restrictions. Each nation had a slightly different version of restrictions, and the restrictions have all been lifted at different times for each of the nations.
There were challenges in courts to these social distancing regulations, but none was successful.

There were a couple of cases before the courts as yet on the implementation of legal and regulatory framework related to the Coronavirus crisis.

In one case, Hussain v Secretary of State for Health and Social Care [2020] EWHC 1392 (Admin) concerning the legality of closing places of worship to prevent the spread of coronavirus, the English High Court found the Regulations to be lawful.

The case of Dolan v Secretary of State for Health and Social Care [2020] EWHC 1786 (Admin) also challenged the legality more generally of the lockdown Regulations. De novo, the High Court ruled that the Regulations were lawful. Although not expressly relying upon the precautionary principle, this principle was implicit in the judgement. On human rights grounds, this was a justified interference with the right to family life and it fell within the scope of measures that the Government could take for the protection of public health.

2.4. Support Measures for Industrial and Non-Productive Sectors

**Industrial Sector**

Various support measures for the farming sector were established, for instance, by the Payments to Farmers (Controls and Checks) (Wales) (Coronavirus) Regulations 2020 and the Direct Payments to Farmers (Application Deadlines) (Coronavirus) (Amendment) (England) Regulations 2020. For example, in England dairy farmers will be able to access up to 10,000 GBP each to help them overcome the impact of the coronavirus crisis.

**Non-Productive Sector**

The following measures for non-productive sector were taken:

- Covid Corporate Finance Facility (CCFF). The CCFF is operated by the Bank of England (BoE) on behalf of HM Treasury, and the detailed conditions are found in a joint BoE / HM Treasury Market Notice. The facility is designed to support liquidity among larger firms that can demonstrate they were in sound financial health prior to the impact of the COVID-19 and that they make a “material contribution” to the UK economy by helping them to bridge coronavirus disruption to their cash flows through the purchase of short-term debt. The scheme was designed to operate for at least 12 months and purchase sterling-denominated commercial paper;

- Coronavirus Large Business Interruption Loan Scheme helps medium- and large-sized businesses to access loans and other kinds of finance up to 200 million GBP;

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336 For further information on the application of the precautionary principle to public health emergencies, particularly in the European Union, see Messerschmidt K. COVID-19 legislation in the light of the precautionary principle. 2020. No. 8 Theory and Practice of Legislation.

Bounce Back Loan Scheme (BBLS) was established to provide financial support to businesses affected by the COVID-19 outbreak. The scheme helps SMEs to borrow from 2,000 GBP and up to 25% of their turnover;

Coronavirus Business Interruption Loan Scheme was created to support SMEs with an annual turnover of up to 45 million GBP with access to 5 million GBP of finance in the form of term loans, overdrafts, invoice finance, and asset finance facilities for up to six years.

All VAT-registered UK businesses were made automatically eligible to the programs above with no application required.

2.5. Support Measures for Population

There have been a series of measures taken to support the general population, including, but not limited to:

- protection of tenants from eviction;\(^{338}\)
- mortgage holidays for consumers;\(^{339}\)
- freeze on repayments for 3 months for personal loans and credit card debts implemented by the Financial Conduct Authority;
- reduced VAT in various areas, such as zero rating for personal protective equipment used for protection from coronavirus;\(^{340}\)
- Coronavirus Job Retention Scheme allowing businesses to place employees on a temporary leave of absence (known as furlough) and recoup 80% of their usual monthly wage costs from the UK tax authorities;
- Self-Employment Income Support Scheme allows self-employed workers to claim a taxable grant of 80% of their average monthly trading profits, paid out in installments.

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\(^{338}\) See Section 81 and Schedule 29 of the Coronavirus Act 2020.

\(^{339}\) See Guidance issued by the Financial Conduct Authority: Mortgages and coronavirus: our guidance for firms (March 2020).

\(^{340}\) The Value Added Tax [Zero Rate for Personal Protective Equipment] (Coronavirus) Order 2020.
VII. The USA

Summary

346. The federal government instituted several travel restrictions, closed the United States borders, released social distancing guidelines, passed several relief packages for businesses and the population, and utilized emergency powers to facilitate production.

347. States and local governments had a more active role in issuing specific social distancing measures like stay-at-home orders, gathering bans, and face mask requirements while instituting closures of businesses, restaurants, bars, and schools. Both the federal and state governments have acted in compliance with the legal regulation of emergency situations within the country.

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

348. The US Constitution neither explicitly includes general emergency powers nor provides any guidance on declaring an emergency. The term “emergency” (or similar terms) is never used, emergency declarations and their duration are never addressed, and the explicit power of competent authorities is not explicitly defined. The Constitution arguably does contain implied emergency powers, which can be invoked during an emergency situation. For example, in Article I, Section 8, the granting of emergency powers by the US Congress is often interpreted to be implied by its authority to “provide for the common Defense and general Welfare”.

349. Instead, executive emergency powers (including presidential emergency powers) derive from acts of Congress, the activation of which requires the President to declare a state of emergency.

350. While the Supremacy Clause of the Constitution requires “the preeminence of federal law in matters delegated to the federal government,” the Tenth Amendment to the Constitution reserves “police powers” to the states to promote public health, morals, or safety, and enact laws for the general welfare of the public. These police powers permit individual states to enforce public health interventions like isolation, quarantine, and other laws to mitigate the spread of an infectious disease during a pandemic. The Constitution grants these powers to the states, and in turn, states may delegate such powers to local governments, though the Constitution is silent on such delegation. Thus, the delegation of power to local jurisdictions is solely left up to the states, which vary from state to state on exactly how much discretion local governments have to make policy decisions for their people. For example, states that follow “Dillon’s Rule”, a state supremacy legal principle, hold that local governments are only permitted to engage in...
activity specifically and explicitly sanctioned by the state government. Conversely, states that follow “home rule” confer greater authority by local governments by delegating them power. Thus, some local governments are permitted to proclaim a state of emergency within its territorial limits upon a finding by its chief executive. This local emergency power allows chief executives to enforce containment measures like curfews.

1.2. Pre-COVID-19 Regulatory Framework

There are several general laws and regulations on emergency situations like pandemics in the US. The National Emergencies Act authorizes the President to declare a national emergency. The declaration of an emergency by a President under the National Emergencies Act then starts a chain reaction, triggering emergency authorities under other federal statutes. Section 201 of the National Emergencies Act specifically authorizes the President to declare a national emergency, the document of which then must be immediately transmitted to Congress and published in the Federal Register. Under section 301 of the National Emergencies Act, the President must specify the provisions of law under which the President or other officials will act to enable statutory emergency authorities. This presidential declaration activates a number of federal laws delegating the President expanded authority during a national emergency.

The National Emergencies Act does not explicitly define what qualifies as an “emergency”. Rather, while the President is allowed to declare a national emergency, the President must also cite the specific emergency power activated under existing statutory law, notify Congress, maintain records of all orders and regulations that stem from the use of the emergency power, and regularly report the costs incurred to Congress.

The Public Health Service Act (42 United States Code § 247d) authorizes the Secretary of Health and Human Services to lead the federal public health response to public health emergencies and declare a public health emergency. The Public Health Service Act allows for the declaration of a public health emergency when “[1] a disease or disorder presents a public health emergency; or [2] a public health


346 Ibid.

347 For example, see Ordinance Amending Chapter 1, Code of Ordinances of the City of Columbus, Mississippi. URL: https://www.msema.org/wp-content/uploads/2020/03/scan.pdf.


emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists”.

The Robert T. Stafford Disaster and Emergency Assistance Act allows a state governor to petition the President for a declaration of a major disaster or emergency for that particular state when there is a finding that the disaster or emergency is of such severity and scope that the state government cannot effectively respond without federal assistance. The President can declare an emergency for any occasion, including public health emergencies, where the President determines that federal assistance is needed. Separate from this emergency declaration under the Stafford Act, the President can declare a major disaster, which is typically reserved for responses to natural events, such as hurricanes, tornadoes, or earthquakes, to assist state and local governments in their response efforts if the event has caused severe damage. States can declare a disaster or an emergency to petition for federal assistance under the Stafford Act. States will vary in terms of the specific processes and terminology that they use when declaring a disaster, emergency, or even a “disaster emergency,” as was the case in New York state on March 7, 2020.

The Defense Production Act of 1950 gives the federal government broad authority to direct private companies to meet the needs of the national defense. This power is typically used during times of war, domestic emergency preparedness, and recovery from terrorist attacks and natural disasters when there are grave concerns about the supplies and resources needed during such events.

Upon declaration of an emergency, numerous federal statutes are triggered, making broad emergency powers available to the President and the executive branch. For example, relevant to the COVID-19 pandemic, a declaration of a public health emergency activates 21 United States Code § 360bbb-3, allowing the Secretary of Health and Human Services to authorize the use of an unapproved drug, device, or biological product or an unapproved use of an approved drug, device, or biological product. A declaration of an emergency under the Stafford Act and a declaration of public health emergency activates 42 United States Code § 1320b-5, which allows the Secretary of Health and Human Services to waive confidentiality, certification, sanctions, and other provisions as necessary to supply public health services. This justification allows for the temporary expanded use of telehealth and extending health provider licenses during an emergency.

352 42 U.S.C. § 247d.


355 Ibid.


358. The Brennan Center of Justice’s Guide to Emergency Powers and Their Use report identified 123 statutory powers that are activated and available to the President when they declare a national emergency; an additional 13 statutory powers are triggered when Congress declares a national emergency. At the same time, there is no legal basis or specific rule on the scope of what constitutes an emergency worthy of these declarations.

359. While there may not be an explicit scope set for what constitutes a national emergency worthy of such a declaration, this presidential power does not go entirely unchecked. When a national emergency is declared through the National Emergencies Act, Congress can attempt to overrule the President’s use of the National Emergencies Act by passing a joint resolution of both the House and the Senate to terminate the emergency. In terms of duration, while Congress can terminate the declaration by a joint resolution, the President can terminate the emergency period by issuing another proclamation. Otherwise, the national emergency automatically ends one year after the declaration unless it was otherwise renewed by the President within 90 days of expiration by providing notice to Congress and publishing the renewed proclamation in the Federal Register.

360. Federal, state, and local governments all possess the power to declare an emergency for a public health situation, like a pandemic. Generally, states do not need federal approval to declare an emergency; rather, they are permitted to declare an emergency following their own specific state processes. “Police powers” are reserved to the state governments under the Tenth Amendment to the Constitution to promote public health and safety and enact laws for the general welfare of the public. All 50 states and the District of Columbia have mechanisms allowing government officials to declare a state of emergency that activates authorities and resources.

361. States may declare and activate their emergency powers independent of the federal government, making these emergency powers decentralized, but there are also mechanisms allowing for emergency support for a particular state from the federal government. A state emergency declaration is typically made by the state’s governor, but some states do permit state health officers to declare public health emergencies. And due to the principles of federalism, state laws will be preempted if they conflict with the federal law. The ability of a local government to declare an emergency does vary from state to state, depending on the authority granted to the local government.


362. The state’s ability to declare an emergency is independent of and separate from its ability to request federal support to deal with an emergency. Should a state require federal support, namely financial assistance, to deal with a particular emergency, however, a state governor can petition the President for a declaration of a major disaster or emergency in their state when they need it under the Stafford Act. If this petition is approved by the President, then the federal government can provide financial assistance to the states to deal with the particular emergency.

363. Local governments are not specifically covered under the Constitution, but as noticed above, through the Tenth Amendment, states have the authority to give power, either broadly or more narrowly tailored, to local governments. In response to the pandemic, while some states can expressly preempt local public health responses at the county, municipal, or tribal level, other states establish a regulatory baseline and explicitly allow and empower local governments to issue more restrictive orders. 365

1.3. COVID-19 Regulatory Framework

364. No new laws or regulations have been issued on emergency powers for authorities at the federal level. Nevertheless, there have been numerous laws and regulations issued during the COVID-19 regarding the measures taken.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

365. On January 31, 2020, a public health emergency under the Public Health Service Act was declared in the United States as a result of the COVID-19 outbreak. The declaration stated that a public health emergency existed and had existed nationwide since January 27, 2020. 366

366. On March 13, 2020, the President declared a national emergency under the authority of Sections 201 and 301 of the National Emergencies Act due to the COVID-19 outbreak in the United States. 367 Under the declaration, the President directed the Secretary of Health and Human Services to exercise their authority under Section 1135 of the Social Security Act to waive certain provisions of Medicare, Medicaid, the State Children’s Health Insurance Program, and the Health Insurance Portability and Accountability Act and to provide certification and notice to the Congress in advance. 368

367. Also, on March 13, 2020, the President declared an emergency under Section 501(b) of the Stafford Act. The declaration notes that as of that date, 32 states, three territories, four tribes, and one tribal nation had already declared a state of emergency due to the COVID-19 outbreak. 369


368 Ibid.

States also began to declare disasters under the Stafford Act to receive federal funding and support to cope with the growing outbreak. For example, on March 20, 2020, the federal government approved the disaster declaration by New York state, which made available federal funding for New York’s emergency response.370 Similarly, as of June 8, 2020, disaster declarations from all 50 states, the District of Columbia, and four territories were approved by the federal government under the Stafford Act.371 This move activated the Federal Emergency Management Agency emergency powers to provide assistance and response funds to the states.372

By March 16, 2020, all states declared a state of emergency, with Washington state being the first to do so on February 29 and West Virginia being the last state on March 16.373 The laws surrounding state declarations of emergency vary from state to state, with some requiring legislative approval, some states providing strict durational requirements, and other states allowing the emergency to remain in effect until otherwise lifted by a state order.

2.1. General Measures

Transport

The following measures were taken on a federal level:

- a travel ban for foreign nationals originating from China;374
- a travel ban from Iran by foreign nationals and a travel advisory warning for areas in Italy and South Korea;375
- a travel ban from EU countries by foreign nationals, excluding the United Kingdom and Ireland at first.376

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- a travel ban from Iran by foreign nationals and a travel advisory warning for areas in Italy and South Korea;
- a travel ban from EU countries by foreign nationals, excluding the United Kingdom and Ireland at first.
• a closure of the physical United States borders with Canada and Mexico to non-essential travel.

371. Individual states also placed restrictions on entering travelers. Early on, most state-level travel restrictions required those traveling from overseas or those who travel from early United States hot spots like New York, New Jersey, Connecticut, and the city of New Orleans to self-quarantine for at least 14 days. 377

372. As to a sunset clause, all the measures have an expiry date.

Public Health

373. In a public health area, the following measures were taken (not exhaustive):

• increased infection control;
• environmental surface cleaning;
• use of recommended personal protective equipment;
• optimizing Personal Protective Equipment (PPE) supplies. 378

Education

374. There was no nationwide school closure, most states ordered the closure of schools shortly after the national emergency declaration. Several governors announced these closures via press conference, while some states left the details up to local boards of superintendents and educations to handle.

2.2. Containment Measures Regarding Industrial and Non-Productive Sector

Industrial Sector

375. The United States Department of Homeland Security Cybersecurity and Infrastructure Security Agency released an original guidance for essential critical infrastructure workers on March 18, 2020. This document was intended to provide guidance to state and local jurisdictions, as well as the private sector, on distinguishing who should be considered essential critical infrastructure workers so that these workers can continue their work and perform their essential functions in spite of closures, restrictions, and social distancing mandates. 379 “Critical Infrastructure” is defined to include any “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters”. 380 Several states explicitly adopted these guidelines for the workers and industries in their state.


Most of the restrictive measures during the COVID-19 were taken at the state level as opposed to the federal level and vary from state to state. State Executive Orders have included closures of non-essential businesses, particularly retail businesses.

Non-Productive Sector

Similar to the industrial sector, most of the specific restrictive measures were taken at the state level and varied across the states. Several states had attempted to lessen the burden on the health care industry and free up the personal protective equipment stockpiles by requiring the postponement of elective medical procedures.

Restaurants were closed to in-person dining, though most allowed for takeout or delivery services during the closure. Other non-essential businesses, including retail businesses, entertainment businesses, and personal service businesses, were often closed by various states. These businesses were eventually allowed to reopen over time, following social distancing measures and capacity requirements that varied by regions within a given state.

Strict social distancing measures, including face mask requirements, were also introduced.

2.3. Containment Measures Regarding Population

At the federal level, the President announced social distancing guidelines, building upon guidelines issued by the Centers for Disease Control and Prevention, and, thus, limiting gatherings to fewer than 10 people, avoiding on-site dining at bars and restaurants, and limiting unnecessary travel on March 16, 2020.

Aside from these federal guidelines, specific social distancing restrictive measures, however, were primarily instituted at the state and local level and greatly varied by jurisdiction:

- according to the Centers for Disease Control and Prevention, April 6, 2020, was the first peak date of new COVID-19 cases in the United States. By that date, 39 states had issued stay-at-home orders, with limited exceptions that varied by state to allow people to access essential services, engage in outdoor activity, and care for family members;

- gathering bans, restrictions on public events. For example, on April 6, 2020, 29 states restricted gathering sizes, with the majority of those states banning gatherings of more than 10 people.

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• face coverings in public places, while taking public transportation or shopping.

382. The majority of these measures was taken at the state level and varied widely temporarily as well as content-wise.

383. These containment measures taken at both the state and local levels are facing challenges from the public and in court for their infringement on personal freedom and business activity. For example, in the State of Michigan, armed protesters demonstrated against the governor’s extension of a stay-at-home order at the Michigan capitol building back in late April 2020. Several states saw tense protests against stay-at-home orders or what many saw as the slow re-opening of businesses in some states worsening the already dire economic impact of the COVID-19-related business closures, after states like Georgia, Oklahoma, and South Carolina moved ahead with re-openings. There have also been several challenges to state COVID-19 measures. For example, a group of Michigan residents challenged the state’s restrictions on intrastate travel. Yet the Michigan court refused to stop the restrictions, finding them to be reasonable measures amid the public health crisis. Similarly, there are several challenges to state stay-at-home orders that do not include exemptions for attending religious services, one of which has made its way to the United States Supreme Court. The United States Supreme Court denied the request of a California church to block the state’s restriction on in-person worship services, based on the emergency situation and the ability of the state to impose such restrictions under the Constitution.

384. There have been some successful challenges, most notably in the state of Wisconsin, where members of the Wisconsin legislature challenged the authority of Wisconsin executives to extend the state’s stay-at-home order and the Wisconsin Supreme Court voted to overturn the state’s stay-at-home order on May 13, 2020. Although some court rulings have been expedited during the emergency situation, the United States legal system is generally a slow process, further slowed by the closing of some court services amid the pandemic, so it may be a while until we know the outcome of further challenges. Lastly, there have been conflicts between local mayors and state governors, particularly surrounding the implementation of public face mask mandates. For example, the governor of Georgia is trying to block the mayor of Atlanta from imposing a face mask requirement for persons in public, filing a lawsuit on July 16, 2020, challenging the mayor’s face mask ordinance, especially after the Governor issued a statewide executive order banning municipalities from issuing face mask mandates.


387 Ibid.


2.4. Support Measures for Industrial and Non-Productive Sectors

**Industrial Sector**

385. On March 18, 2020, the President issued an Executive Order invoking emergency powers through the Defense Production Act, although the federal government did not immediately act on the provided powers.\(^{391}\) Section 101 of the Defense Production Act allows the President to require private companies to prioritize government contracts over any other contracts to promote national defense.\(^{392}\) As stated in the Executive Order, the President directed the Secretary of Health and Human Services to use the Defense Production Act powers to assist the healthcare system dealing with surge capacity in response to the outbreak by ensuring the production and distribution of ventilators and personal protective equipment.\(^{393}\)

386. On April 28, 2020, the President issued another Executive Order again invoking the Defense Production Act to direct the Secretary of Agriculture to ensure that all meat and poultry processors continue operations, in response to several COVID-19 outbreaks among workers at several meat processing plants.\(^{394}\)

387. On May 19, 2020, the President issued an Executive Order directing federal agencies to remove regulatory barriers to economic activity.\(^{395}\) The goal of the Order was to adjust regulatory requirements, either by extending agreements or utilizing enforcement requirements to promote job creation and economic growth in various industries.

**Non-Productive Sector**

388. The Coronavirus Preparedness and Response Supplemental Appropriations Act (H.R. 6074, Pub. L. 116–123) was signed into law by Congress\(^{396}\) and provided emergency appropriations of USD 8.3 billion to combat the COVID-19 outbreak in the United States. The act provides emergency funding for the research and development of vaccines and treatment, public health funding to support the response efforts of state

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and local agencies, medical supplies for surge capacity, loans for small businesses, and funds to assist in the global efforts to combat the COVID-19 pandemic.  

389. In addition to the above, aid package providing funding for testing, aid to health care providers, and a second round of funding for small businesses through the paycheck protection loan program through the Small Business Administration was adopted. While applications for Small Business Administration funding typically preclude foreign-owned businesses, in this specific situation a United States subsidiary of a foreign-owned business was still allowed to qualify. The Small Business Association is also providing export loans to small businesses to help identify new customer bases overseas to offset losses due to the COVID-19.  

2.5. Support Measures for Population  

390. The Families First Coronavirus Response Act (H.R. 6201, Pub. L. 116–127) supported the population by funding free coronavirus testing, providing extended family medical leave and paid sick leave for workers, and expanded unemployment benefits. Specifically, this act temporarily expands the Family Medical Leave Act by covering leave for an employee who is unable to work or telework because that employee needs to care for a child under 18 if the child’s school or daycare is closed due to the COVID-19.  

391. In addition to that, the Coronavirus Aid, Relief, and Economic Security Act (H.R. 748, Pub. L. 116–136) was signed into law. This USD 2 trillion stimulus bill included direct payments to eligible Americans.  

392. The United States Centers for Disease Control and Prevention are providing guidance to states to ramp up their ability to implement contract tracing, specifically through the use of digital tools, like apps. States are varying in their approaches to contract tracing, with some state departments of health attempting to implement programs in-house, while other states are partnering with or contracting with private companies.  

397 Ibid.  
401 Ibid.  
402 Ibid.  
404 Ibid.  
VIII. China

Summary

393. China does not have a general law regulating the state of emergency. Instead, the legal and regulatory framework for public health relating to emergency response consists mainly in the Constitution of the People’s Republic of China, the Emergency Response Law, the Prevention and Treatment of Infectious Diseases Law, the Regulation on Responses to Public Health Emergencies and the government Response Plans for Public Health Emergency.

394. These arrangements exist in a multi-layered government structure, and the Hubei Province and the Heilongjiang Province are two illustrations for local operation. Overall, national and local emergency response plans are at the center of the system.

395. In terms of specific governmental measures, there have been restrictive and a wide range of support measures for industrial sectors, non-productive sectors, and population.

1. Public “Emergency” Response Regime

Overview of a State Machinery

396. The state machinery of the mainland China, organized according to the principle of democratic centralism under the Chinese Communist Party’s leadership, mainly operates through five branches, namely, legislatures (the people’s congresses), administration (the people’s governments), judiciary (the people’s courts), procuratorate (the people’s procuratorates), and supervisory organs (supervisory commissions).407 Vertically, the formal administrative system is typically characterized by a five-layered hierarchy, consisting of the central government (the State Council), provincial-level governments (provinces, autonomous regions, centrally-administered municipalities), prefecture-level governments (autonomous prefectures, prefectures, prefecture-level cities and leagues), county-level governments (counties, autonomous counties, county-level cities, districts, etc.), and township-level governments (towns, subdistricts, district public offices, etc.).408 Below the formal five-layered structure are mass organizations of self-management at the grass-root level, mainly including residents committees among urban areas and villagers committees in rural areas.409

397. Governments at or above the county levels have general authority to administer affairs within their territorial areas, which is mainly achieved through executing resolutions by the legislatures at the corresponding levels, implementing guidance from higher governments as well as internally coordinating works of constituent departments. Each government department is both under the leadership of the government at the same level and subject to guidance by corresponding government departments at higher levels.410

398. Powers to enact laws and policies are split among legislatures, governments, and constituent government departments at various levels,411 and all enactments can be roughly classified into several

408 Ibid. Article 107.
409 Ibid. Article 111.
categories. Apart from the Constitution of the PRC, on the top of the regulatory pyramid are national laws enacted by the National People’s Congress and its Standing Committee, which are the supreme legislatures in China. Administrative regulations enacted by the State Council that supplement or implement laws are only secondary to laws and can override any other enactments that run contrary to them. At the central level, departments under the State Council have the power to formulate departmental rules to guide practice of local departments. Their normative effects are roughly comparable to local regulations enacted by local people’s congresses and administrative rules formulated by local governments. Other miscellaneous enactments by administrative bodies are generally referred to as normative documents, which are of very low normative status but play an important role in daily administration.

1.1. Constitutional Framework

399. The Constitution of the PRC (2018 Amendment) prescribes the powers to decide and declare a state of emergency, although it neither provides any explicit definition for “a state of emergency” nor contains any time limit on the duration of a state of emergency. For the whole nation or a provincial administrative area to be placed under a state of emergency, the National People’s Congress Standing Committee shall, first, make the decision, and the President of the PRC shall make a declaration on a state of emergency in pursuance of such decision. For any subpart of a provincial administrative area to be placed under a state of emergency, the powers to decide and declare are both at the hand of the State Council.

1.2. Pre-COVID-19 Regulatory Framework

400. The Emergency Response Law was enacted in 2007 to prevent and reduce the occurrences of emergency incidents, control, mitigate, and eliminate serious social damage caused by emergency incidents, standardize the emergency response activities, protect the life and property safety of the people, and maintain the national security, public safety, environment safety, and social order. It covers all stages of emergency incidents response, including prevention and preparedness, surveillance and warning, response operations and rescue, and post-emergency response rehabilitation and reconstruction.

401. The term “emergency incidents” include natural disasters, calamitous accidents, public health accidents, and public security incidents, which occur abruptly and cause or may potentially cause serious social harm and for which measures for handling emergencies need to be adopted. According to factors, such as a degree of social damage and extent of effects, natural disasters, accidental disasters, and public health incidents shall be rated in accordance with four levels: especially serious, serious, large, and ordinary. Specific standards for rating emergency incidents are to be made by the State Council or departments designated by it.

402. Based on the scope of effects, governments at the county levels shall be responsible for responding to an emergency incident within their administrative regions. Overall, governments at various levels have

412 There are only three places where the Constitution of the PRC mentions the term “state of emergency”, in Article 67 (On functions and powers of the Standing Committee of the National People’s Congress), Article 80 (On functions and powers of the President), and Article 89 (On functions and powers of the State Council) respectively.


414 Ibid. Article 1.

415 Ibid. Article 2.

416 Ibid. Article 3.
very similar competences under this law. Regarding emergency preparedness, Article 17 stipulates that the State Council and local governments at or above the county levels shall establish and enhance an emergency response plan system. After a natural disaster, accidental disaster, or public health incident occurs, governments may take several emergency response measures according to emergency response plans.

403. There is no specific limitation on the duration of such emergency measures in the law. However, the chosen measures shall be appropriate for the nature, degree, and extent of social damage caused by an emergency incident; and where multiple measures are available for selection, those conducive to the maximum protection of the rights and interests of citizens, legal entities, and other organizations shall be selected.417

404. Procedurally, governments are required to publicize their decisions and orders in response to emergency incidents. They shall also submit their decisions or orders to standing committees of the people’s congresses at the same level for archival purposes, as well as report their work to the standing committees after emergency incidents were settled.418

405. It is also noteworthy that if an emergency incident rated as “especially serious” poses a serious threat to the life or property safety of the people, national security, public safety, environmental safety, or social order, and its serious social damage cannot be eliminated or effectively controlled or mitigated by taking the emergency response measures, the Standing Committee of the National People’s Congress or the State Council may decide on a state of emergency in accordance with the Constitution of the PRC and other relevant laws.419

406. The Prevention and Treatment of Infectious Diseases Law was firstly enacted in 1989420 and experienced two subsequent amendments in 2004421 and 2013.422 This law contains provisions relating to prevention of infectious diseases, information reporting and publication, control of an epidemic situation, medical treatment, supervision, control, guarantee measures, and legal liability. It classifies infectious diseases into A, B, C classes according to their descending seriousness, and mandated response measures based on this classification.423

407. Overall, the health department under the State Council (which is currently the National Health Commission) has the authority to prevent and treat infectious diseases, supervising and controlling spread of diseases nationwide. Local health administrative departments exercise similar powers in their own administrative areas.424 Regarding control of the epidemic situation, governments are authorized to take

417 Ibid. Article 11.
418 Ibid. Article 16.
419 Ibid. Article 69.
420 This legislation was followed by a departmental regulation issued by the Ministry of Health in 1991. See Ministry of Health, Implementing Methods for Prevention and Treatment of Infectious Diseases Law of the PRC. URL: http://www.gov.cn/flfg/2005-08/06/content_21031.htm.
423 Ibid. Article 3.
424 Ibid. Article 6.
three categories of measures, including isolation, urgent measures, and declaration of epidemic areas. If there is a case of infection of a person with a Class A disease in any place, local governments at or above the county level may carry out isolation measures and at the same time report to the governments at the next higher level. If outbreaks of infectious disease require more stringent measures, local governments may report and obtain approval from the governments at the next higher level to take urgent measures. In more severe outbreaks of Class A or B infectious diseases, governments may declare an "epidemic area", so that not only urgent measures can be taken, but also sanitary quarantine can be imposed on persons, goods, materials, and vehicles entering or leaving the epidemic area. Local governments at or above the county level may announce part or the whole of their administrative area as an epidemic area, but the power to declare national or cross-provincial epidemic areas is reserved to the State Council only. If necessary, provincial governments may decide to block an epidemic area of a Class A infectious disease in their own administrative areas. However, if a blockade would involve a large or medium-sized city, or cross more than one province, or interrupt main traffic line nationally, or would lead to blockade of national territorial frontiers, the decision shall be made by the State Council only.

The Regulation on Public Health Emergency Response 2011 was enacted prior to the Emergency Response Law in 2007. This regulation was amended in 2011. This act defines "public health emergency" as "a sudden outburst of a serious contagious disease, colonial disease of unknown causes, important alimentary or occupational toxicosis that has caused or may cause severe effect on the health of the general public and to other incidents that severely affect the health of the general public".

Overall, this regulation mandates the State Council and provincial governments to establish ad hoc headquarters for handling public health emergencies at both national and provincial levels. It also requires the national health department and provincial governments to formulate response plans for public health emergencies. Where any emergency occurs, the administrative departments of health shall organize experts to make comprehensive appraisals about the incidents, make initial judgment about the type of the emergency, and suggest whether to initiate the urgent response plans for emergencies or not.

The power to initiate response plans for emergencies is split among the State Council and provincial governments according to the affected scope of emergencies, and once response plans are initiated, government departments shall accordingly take various measures under the supervision and

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408. Ibid. Articles 41, 42, 43.

409. Ibid.


412. Ibid. Article 2.

413. Ibid. Articles 3, 4.

414. Ibid. Article 10.

415. Ibid. Article 26.

416. Ibid. Article 27.
guidance of the headquarters for the urgent response of emergencies.\textsuperscript{434}

413. Moreover, in the case of a newly found outburst of contagious disease, the health administrative department of the State Council shall announce in good time whether it is a statutory infectious disease in accordance with the Prevention and Treatment of Infectious Disease Law, and the State Council shall decide whether an infectious disease shall be classified as a Class A disease.\textsuperscript{435}

414. The National Response Plan for Public Health Emergency,\textsuperscript{436} the National Overall Response Plan for Emergency,\textsuperscript{437} and the National Response Plan for Medical and Health Rescue in Emergency\textsuperscript{438} are the normative documents issued by the State Council in 2006. Though of low normative status, they provide practical guidance to coordinate the work of various public bodies.

415. Of particular interest here is the National Response Plan for Public Health Emergency, which was formulated according to the 2003 Regulation on Public Health Emergency Response. Echoing the rating system required by the National Overall Response Plan for Emergency, the National Response Plan for Public Health Emergency classifies public health emergency incidents into four levels according to their nature: especially serious (Level I), serious (Level II), large (Level III), and ordinary (Level IV).\textsuperscript{439} This plan provides a list for “especially serious” public health emergencies,\textsuperscript{440} and the health department under the State Council has the power to add to this list. The State Council or its health department and other central departments shall organize the work for dealing with especially serious emergencies. For emergencies of lower levels, local governments shall alarm and respond, and they may adjust the level of emergency as circumstances change. The plan generally prescribes respective responsibilities of governments at various levels, health administrative departments, medical institutions, disease prevention and control organizations, supervisory institutions for public health, border sanitary institutions, etc.\textsuperscript{441} For example, governments at various levels have powers to mobilize local material resources, define control areas, take restrictive and control measures, regulate population movement, implement transport quarantine measures, etc. Health administrative departments have the power to organize medical investigation, assess and suggest the level for public health emergency response, make technical standards, etc.

\textit{Subnational Regulatory Framework on Public Health Emergencies}

416. Local regulations, government rules, or normative documents dealing with emergencies are usually formulated for local implementation of the national enactments. For the purposes of this Analytical Report the two localities, including Hubei Province and its capital city of Wuhan, and Heilongjiang Province and its capital city of Harbin, were selected.

\textsuperscript{434} Ibid. Articles 28, 31.
\textsuperscript{435} Ibid. Article 30.
\textsuperscript{439} The National Response Plan for Public Health Emergency. Para. 1.3.
\textsuperscript{440} Six types of public health emergencies are currently on the lists, including spread of infectious atypical pneumonia or human infection with highly pathogenic avian influenza, expansion of unknown disease that have plagued multiple provinces, spread of pneumonic plague or pulmonary anthrax in medium or large-sized cities, etc.
\textsuperscript{441} The National Response Plan for Public Health Emergency. Para. 4.2.
Following the Regulation on Public Health Emergency Response and the three National Response Plans for Emergency, the Hubei Provincial Government formulated its provincial Overall Response Plan for Emergency\textsuperscript{442} and provincial Response Plan for Public Health Emergency in 2006.\textsuperscript{443} and the latter normative document was amended in 2011. In 2014, echoing the enactment of the 2007 Emergency Response Law, the provincial government issued an administrative rule titled the Methods for Emergency Response of Hubei Province.\textsuperscript{444}

Compared with national enactments, provincial enactments have very similar structures but contain more detailed practical guidance. This is particularly illustrated by the Hubei Provincial Response Plan for Public Health Emergency.

The Provincial Plan adopts the four-level emergency rating system, and the standards for public health emergencies are stipulated to such a level of specificity that a public health department could judge whether flu infecting 30 students within one week in the same school would count as a public health emergency. The Plan also specifies detailed coordinative responsibilities of the provincial health department in response to different levels of emergency, and it generally mandates municipal and country governments to take restrictive measures such as delimiting areas for control, policing population movement, implementing sanitary quarantine for transportation, work ban, etc. Overall, this provincial plan has served as an important basis for actions by local health departments at or below the provincial level.

At the prefecture level, apart from implementation options on the National Overall Response Plan for Emergency and Emergency Response Law, the Wuhan government formulated local administrative rules and normative documents to establish a municipally based emergency responses system. In 2005, the government issued Wuhan Municipal Measures for Especially Serious or Large Public Emergency Response [Trial],\textsuperscript{445} an administrative rule that prescribes the obligation for prompt publicity of information about emergencies. In 2008, the government issued Wuhan Municipal Measures for Emergency Alarming and Response Information Publicity and Communication [Trial].\textsuperscript{446} It was until 2013 that the government enacted its Wuhan Municipal Overall Response Plan for Emergency\textsuperscript{447} and in 2014 the Wuhan Municipal
Response Plan for Public Health Emergency was issued.\textsuperscript{448}

421. Few changes to existing local enactments are effective so far. A new local government regulation, however, was issued on January 29, 2020, by the Wuhan Headquarter for Prevention and Control of Novel Coronavirus Pneumonia, titled the Wuhan Municipal Interim Measures for Prevention and Control of Novel Coronavirus Pneumonia.\textsuperscript{449} This normative document did not enlarge the existing government powers under the national enactments but rather consolidated specific measures that the municipal government might take to counter the COVID-19. This document did not set a date of expiry, and termination of its effects depends on the epidemic situation.

\textit{Heilongjiang Province}

422. Since 2008, the Heilongjiang provincial government has successively issued the Heilongjiang Provincial Overall Response Plan for Public Emergency\textsuperscript{450} and the Heilongjiang Provincial Measures for Managing Emergency Response Plans,\textsuperscript{451} which remained unchanged during the COVID-19 epidemic.

423. It is noteworthy that on February 18, 2020, a special resolution was passed by the Standing Committee of the Heilongjiang Provincial People’s Congress targeted to strengthen the prevention and control of novel coronavirus pneumonia according to law.\textsuperscript{452} This resolution clarified and concretized competences of public bodies as a response to emerging local malpractices that lack legal basis. It expressly required the temporary emergency administrative measures to be suitable for nature, degree, and scope of the social hazards that may be caused by the epidemic, and rough, harsh, and blanket measures should be avoided. It also pointed to the government responsibility to report and archive their measures to the corresponding people’s congresses and to the next higher governments for supervision.

424. In fact, resolutions of a similar kind have been adopted by standing committees of local legislatures in many other provinces and prefectures,\textsuperscript{453} many of which expressly endorse local governments at the county, prefecture, or provincial levels the power to enact local regulations, issue orders or make public notice in relation to provisional emergency response management measures.\textsuperscript{454}


\textsuperscript{452} Decision of the Standing Committee of the Heilongjiang Provincial People’s Congress on Strengthening the Prevention and Control of Novel Coronavirus Pneumonia According to Law. URL: http://www.hl.gov.cn/zwfb/system/2020/02/18/010919698.shtml.


\textsuperscript{454} Ibid. Beijing and Jiangsu are two examples among others. See Decision of the Standing Committee of the Beijing People’s Congress to Win the Battle in Preventing and Controlling the Outbreak of Novel Coronavirus Pneumonia According to Law. URL: http://www.bjrd.gov.cn/zdqw/zyfb/202002/120200207_201314.html; Decision of the Standing Committee of the Jiangsu People’s Congresses to Prevent and Control the Novel Coronavirus Pneumonia Epidemic and Ensure the Health and Safety of the People according to Law. URL: http://www.jsrd.gov.cn/zyfb/sjfq/202002/120200208_520051.shtml.
At the prefecture level, the Harbin government has enacted over 20 local administrative rules by 2018, including the Guiding Opinions on Emergency Response Work, the Rules for Reporting Emergency Information, the Measures for Disclosure of Emergency Information, the Working Process of Emergency Response and Handling, the Measures on Issuing Warning Information on Emergency, Emergency Duty Work Rotation. It also enacted the Harbin Overall Response Plan for Public Emergency and the Response Plan for Public Health Emergency. These rules remain unchanged during the COVID-19 outbreak.

The major grounds for government actions during the epidemic are a series of orders and notices issued by the Harbin Headquarter for Responding Novel Coronavirus Pneumonia, which set out specific measures to be taken at different stages of control.

1.3. COVID-19 Regulatory Framework

There were no laws and regulations adopted in relation to the COVID-19 pandemic due to the implementation of pre-COVID-19 laws and regulations.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

The blockade of Wuhan to prevent an outflow of cases to the whole country and concentrate treatment of patients was the first significant move. On January 23, 2020, the Wuhan Municipal Headquarter for Prevention and Control of Novel Coronavirus Pneumonia, an organization newly established on January 20, 2020, at the center of local epidemic control, issued a public notice that formally placed the city under lockdown.

According to Article 43 of the Prevention and Treatment of Infectious Disease Law, when a Class A or Class B infectious disease prevails, the decision to block a large-sized city can only be made by the State Council after the city is declared as an epidemic area. It seems that Wuhan was de facto regarded as an epidemic area, despite that the State Council did not officially announce so.

Transport

Traffic control was implemented down through the whole administrative system. On January 24, 2020, the Novel Coronavirus Pneumonia Joint Prevention and Control Mechanism of the State Council issued the Notice on Strengthening Community Prevention and Control of Coronavirus Pneumonia

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457 For example, Notice No. 8 issued on February 4, 2020, set off several restrictive measures on population movement and information collection in several districts of Harbin, the expiry of which was set dependent on the epidemic situation; Notice No. 16 issued on February 17, 2020, suspended all private clinics in Harbin. See No. 8 Notice of the Harbin Headquarter for Responding Novel Coronavirus Pneumonia. URL: http://www.harbin.gov.cn/art/2020/2/4/art_209_870818.html; No. 16 of the Harbin Headquarter for Responding Novel Coronavirus Pneumonia. URL: http://www.hlj.gov.cn/zwfb/system/2020/02/17/010919596.shtml.

Outbreak.\footnote{Novel Coronavirus Pneumonia Joint Prevention and Control Mechanism of the State Council. Notice on Strengthening Community Prevention and Control of Coronavirus Pneumonia Outbreak, No. 5 of 2020. URL: \url{http://www.nhc.gov.cn/jkj/s3577/202001/dd1e502534004a8d88b66a10f329a3369.shtml}.}

431. In addition to the above, sanitary quarantine measures were taken. In particular, international passengers upon arrival had to be concentrated and placed under a 14-day quarantine at designated places for medical observation on their own costs and since April 1, 2020, all passengers should take a nucleic acid test, and these measures are generally mandated by Article 17 of the Frontier Sanitary and Quarantine Law.\footnote{Frontier Sanitary and Quarantine Law of the PRC 2018. URL: \url{http://www.customs.gov.cn/customs/302249/302266/302267/2369512/index.html}.} Moreover, international flights have been significantly reduced.

\textit{Public Health}

432. Quarantine for anyone who had recent travel history to Wuhan was introduced. Such person had to register with the local medical institutions and country health department and be placed under 14-day quarantine at home for medical observation, and confirmed cases received concentrated treatment in designated medical institutions.

\textit{Education}

433. School classes were suspended. These measures are mandated by Article 49(4) of the Emergency Response Law, which stipulates that after the occurrence of natural disasters, accidents, or public health incidents, the people’s government performing unified leadership duties may “prohibit or restrict the use of relevant equipment and facilities, closing or restricting the use of relevant places, suspending personnel-intensive activities or production and business activities that may cause harm to expand, and take other protective measures”. Article 42(2) of the Prevention and Treatment of Infectious Diseases Law also mandated the local people’s government at or above the county level to suspend work, business, and school classes when an infectious disease breaks out and prevails, subject to the approval of the next-higher-level governments.

434. Violation of these government restrictive emergency measures may result in civil, administrative, and/or criminal liabilities. According to Article 50(1) of the Public Security Administration Punishment Law,\footnote{Public Security Administration Punishment Law of the PRC 2005. URL: \url{https://www.cecc.gov/resources/legal-provisions/public-security-administration-punishment-law-chinese-text}.} non-compliance with government orders or resolutions in an emergency may incur fines and/or detention for at most 10 days. According to Articles 67 and 68 of the Emergency Response Law, any entity or individual that violates any provision of this law, causes the occurrence of an emergency incident or expansion of damage and inflicts damage to the body or property of any other person shall assume the civil liability according to law. If a violation of relevant legal provisions constitutes a criminal offense, criminal liabilities will also be imposed.

\section*{2.2. Containment Measures Regarding Industrial and Non-Productive Sectors}

\textit{Industrial Sector}

435. Most enterprises have suffered from the suspension of business, except for enterprises that
produce, transport, and sell important medical protective equipment, sterilizers, medicines, or important life supplies, which have continued to operate to support epidemic control. Since late February 2020, the resumption of business has been gradually carried out locally according to differentiated levels of epidemic risks.\textsuperscript{462} Still, many MSMEs, individual commercial households found it extremely hard to sustain.

\textit{Non-Productive Sector}

436. In non-productive sector, catering, tourism, entertainment, and hoteling have especially suffered from government containment measures, facing significantly reduced market demands due to traffic control, community quarantine, and other specific restrictions. On January 24, 2020, the Ministry of Culture and Tourism urgently suspended all group travel and halted the selling of all flight and accommodation packages by tourism companies.\textsuperscript{463} On March 27, 2020, the China Film Administration urged all cinemas nationwide to suspend business.\textsuperscript{464} Most public museums, karaoke bars, and internet cafes were suspended from operation by local governments.

\subsection*{2.3. Containment Measures Regarding Population}

437. Mandatory isolation and quarantine for three groups of the population according to the Prevention and Treatment of Infectious Disease Law were imposed. The first group were people confirmed as being infected by coronavirus, to whom medical treatment in isolation applies. The second group of people included suspected cases, those with suspicious fever symptoms, and people having close contact with confirmed cases, to whom medical observation applies. The third group of people were those in the places where coronavirus cases were detected. This is based on Article 41 of the Prevention and Treatment of Infectious Disease Law, which stipulated that “with respect to the places where there are cases of infectious diseases under Class A or to the persons in the special areas within such places, the local people’s governments at or above the county level where the above places are located may carry out isolation measures”.

438. Some subnational governments had taken harsh containment measures. One extreme example is the “Wartime Order” issued by the Zhangwan District Government in Hubei Province. The order required that all buildings in the district, no matter whether there were confirmed or suspected cases of the COVID-19, shall be blocked for 14 days and no residents other than medical professionals or those supplying daily necessities shall enter or leave buildings. All those who forcibly break into the isolation, warning and sealing facilities set up in the community, courtyards, buildings, and road entrances or exits shall be detained.\textsuperscript{465}

\begin{itemize}
  \item \textsuperscript{463} Office of Ministry of Culture and Tourism. Urgent Notice on the Prevention and Control of Novel Coronavirus Pneumonia. URL: http://www.gov.cn/fuwu/2020-01/26/content_5472279.htm.
  \item \textsuperscript{464} Paper News. Notice from the National Film Administration: All Cinemas Shall Not Resume Business or Shall Stop If They Have Resumed. URL: https://www.thepaper.cn/newsDetail_forward_6720498.
  \item \textsuperscript{465} The Beijing News. Shiyan Zhangwan District Issued the First Wartime Control Order in the Country. Listen to What Legal Experts Say. URL: http://www bjnews.com.cn/news/2020/02/13/688836.html.
\end{itemize}
In addition to the above the following measures were taken:

- ban on gathering;
- social distancing;
- health QR code system. In accordance with the system, individuals were supposed to download the mobile application to create a personal health QR code, and only individuals with QR codes showing healthy condition could freely access residency communities, take public transport, or go to public places.\textsuperscript{466} This system has a tracing function. Analogous to electronic certificating, it has been promoted nationwide, and many cities have cooperated for mutual recognition of local health QR codes to facilitate efficient population movement.

For the moment there is no public information on any claims lodged to a court concerning the containment measures taken to mitigate the COVID-19 crisis.

2.4. Support Measures for Industrial and Non-Productive Sectors

\textit{Industrial Sector}

At the central level, government departments and financial institutions have adopted various financial measures to support industrial sectors, particularly for enterprises that guarantee epidemic control and MSMEs.

The Notice of Further Strengthening Financial Support for Prevention and Control of Novel Coronavirus Infection was issued by the Ministry of Finance together with other four central institutions on January 31, 2020.\textsuperscript{467} It required that during the epidemic period, medical enterprises important for epidemic control or people’s livelihood are subject to a list management system, and listed companies are supported by preferential interest rate credit, credit loans for SMEs.

Financial measures to support the resumption of production of MSMEs (People’s Bank of China)\textsuperscript{468} included measures to:

1) provide 1.8 trillion CNY re-loan and subsidies;
2) support policy banks to increase the special credit quota of 350 billion CNY for private SMEs until the end of June 2020;
3) guide financial institutions to increase 300-billion CNY low-interest rates loans targeted at individual industrial and commercial households that were greatly affected by the epidemic;
4) increase bond financing support and establish a “green channel” for bond issuance in special periods;

5) promote the integration of core enterprises and state-owned banks with accounts receivable financing platforms;

6) make temporary deferred repayment arrangements for SMEs (including individual industrial and commercial households) that meet the conditions and have temporary liquidity difficulties.

444. In addition to the above, exemption or reduction of taxes or fees was provided. For example, on February 2, 2020, the Ministry of Human Resources and Social Security, the Ministry of Finance, the State Administration of Taxation issued the Notice on Periodic Reduction and Exemption of Corporate Social Insurance Premiums. It stipulated that from February 2020, provinces other than Hubei might exempt MSMEs from payment of social insurance premiums for maximum 5 months; social insurance premiums of large enterprises might be levied in half for maximum 3 months.

445. Issuing force majeure certificates to enterprises, reducing inspection and quarantine costs, and increasing export credit insurance premium subsidies in Zhejiang Province.

446. In Shanghai, it was even particularly emphasized that foreign-invested or owned enterprises would have national treatment for the COVID-19 related support measures.

Non-Productive Sector

447. To offset the adverse effects of restriction of business, there have been several support measures.

448. Under the Notice of Further Strengthening Financial Support for Prevention and Control of Novel Coronavirus Infection, it was required that financial institutions should not blindly withdraw or cut-off lending, or pressure repayment of loans for industries, such as wholesale and retail, accommodation and catering, logistics and transportation, cultural tourism and other industries that were greatly affected by the epidemic.

449. On February 6, 2020, the Ministry of Finance and the State Taxation Administration issued a document on Relevant Tax Policies Supporting the Prevention and Control of the Outbreak of Novel Coronavirus Pneumonia. It prescribed that the maximum carryover period for enterprises in transportation, catering, accommodation, and tourism as the four “difficult” sectors should be extended from five to eight years.

2.5. Support Measures for Population

450. To alleviate the impacts of the COVID-19 pandemic on people’s livelihood, central and local
governments have taken various support measures.

451. As such, support measures to patients infected by the COVID-19 were adopted by a jointly issued notice of January 22, 2020, by the Ministry of Finance and the Medical Insurance Bureau. It directed provincial governments to reduce the financial costs for treatment,\(^{472}\) which set up special healthcare reimbursement arrangements for COVID-19 patients.

452. Local street offices or county government departments for civil affairs were also obliged to provisionally help households suffering temporary difficulties due to quarantine, and government officials should regularly visit orphans, left-behind children, and the elderly to ensure that they were well cared for. It is important to notice that government assistance to people’s livelihood during quarantine is a legal obligation.

453. Central and local governments adopted several measures to regulate labor relations and increase employment opportunities. For example, on January 24, 2020, the General Office of the Ministry of Human Resources and Social Security issued the Notice Concerning Properly Handling Labor Relations during the Prevention and Control of the Outbreak of Novel Coronavirus Pneumonia.\(^{473}\) It provided that if an employer resumed business but their employees could not return to work due to government measures, employing enterprises should make normal pay to their employees as if they had been working. If an enterprise experienced such difficulties that it had to suspend business for a period longer than a wage payment period (usually one month), employees providing normal work to support the enterprise should be paid no less than the local minimum wages. For those employees who were unable to work as normal, the employer should subsidize their living expenses, the specific standards of which were set by provincial governments, ranging from 60% to 100% of local minimum wages.

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\(^{472}\) Urgent Notice on Medical Insurance for Novel Coronavirus Pneumonia Outbreaks. URL: http://www.gov.cn/xinwen/2020-01/30/content_5473177.htm.

IX. The Russian Federation

Summary

454. At the time of coronavirus epidemic occurrence, the existing legislation provided for the possibility of different regimes in terms of content and legal implications.

455. The Constitution of the Russian Federation and Federal constitutional law No. 3-FKZ dated May 30, 2001 "On the state of emergency" establish the possibility of introducing a "state of emergency".

456. The possibility of declaring a state of emergency is defined by federal legislation. The COVID-19 spread could be regarded as an interregional emergency. The decision to declare an interregional emergency is the prerogative of the Government of the Russian Federation. However, due to the established criteria only natural and technogenic situations can be classified as emergencies, but not epidemics.

457. The federal legislation also provided for the possibility of introducing quarantine — a special restrictive measure aimed at preventing the spread of infectious diseases, at both the federal and regional levels.

458. During the COVID-19 spread, after changing the federal legislation, the concept of an emergency situation began to cover "the situation that has developed in connection with the spread of a disease that poses a danger to others".

459. On the territory of all subjects of the Russian Federation, a regime of self-isolation is introduced by acts of the head of the subjects of the Russian Federation. In each subject of the Russian Federation, the method of isolation (self-isolation) and other restrictions and support measures were based on the sanitary and epidemiological situation and the specifics of the spread of the new coronavirus infection COVID-2019 in this subject of the Russian Federation (Table 5, Table 6).

1. Public “Emergency” Response Regime

1.1. Constitutional Framework

460. Article 56 of the Constitution of the Russian Federation\(^474\) provides for the declaration of a state of emergency on the entire territory of the Russian Federation and in individual areas to ensure the safety of citizens and protection of the constitutional order.

461. In accordance with the federal constitutional law, individual restrictions on rights and freedoms may be established, indicating the limits and duration of their validity.\(^475\) A state of emergency may be imposed in the presence of circumstances and following the procedure established by the Federal


\(^{475}\) The following rights and freedoms guaranteed by the Constitution of the Russian Federation shall not be subject to limitation: the right to life (Article 20), personal dignity (Article 21), right to inviolability of private life, personal and family secret, protection of honor and good name (Article 23, part 1), the right to protection of information about private life (Article 24), guarantees of freedom of conscience and religion (Article 28), right to use freely their abilities and property (Article 34, part 1), right to housing (Article 40, part 1), guarantees of judicial protection of rights and freedoms (Article 46), right to trial (Article 47), right to qualified legal assistance (Article 48), and other judicial guarantees of the rights of citizens (Article 49-54).
Constitutional law No. 3-FKZ dated May 30, 2001 “On the state of emergency”.

Against the background of the COVID-19 coronavirus pandemic, the state of emergency was not declared either on the entire territory or certain territories of the Russian Federation.

1.2. Pre-COVID-19 Regulatory Framework

Federal Law No. 68-FZ dated December 21, 1994 “On protection of the population and territories from natural and technogenic emergencies” has a general nature.

Until the Emergency Law was amended in April 2020 it included the concept of “emergency”, which was defined as “the situation in the certain territory developed as a result of an accident, a dangerous natural phenomenon, a catastrophe, a natural or other disaster which can entail or has entailed human victims, the damage to human health or the environment, considerable material losses and violation of conditions of activity of people”.

Pursuant to the Emergency Law, the Government of the Russian Federation adopted a Resolution No. 304.

In accordance with the Resolution No. 304, emergencies are divided into the following types:

- Emergency situation at a local level — the territory in which an emergency situation has developed and the living conditions of people are violated does not go beyond the territory of the organization (facility), while the number of people who have died and (or) suffered damage to health is not more than 10 or the amount of damage to the environment and material losses is no more than RUB 240 thousand;

- Emergency situation at a municipal level — the emergency zone does not go beyond the territory of one municipality, while the number of people who have died and (or) suffered health damage is no more than 50 or the amount of material damage is no more than RUB 12 million, as well as this an emergency cannot be attributed to a local emergency;

- Emergency situation at an inter-municipal level — an emergency zone affects the territory of two or more municipal or urban districts located on the territory of one subject of the Russian Federation, or inner-city territories of a city of federal significance, while the number of people who have died and (or) those who have received damage to their health is no more than 50 or the amount of material damage is no more than RUB 12 million;

- Emergency situation at a regional level — the emergency zone does not go beyond the territory of one subject of the Russian Federation, while the number of people who have died and (or) suffered health damage is over 50, but no more than 500, or the amount of material damage is over RUB 12 million, but not more than RUB 1.2 billion;

- Emergency situation at an interregional level — an emergency zone affects the territory of two or more subjects of the Russian Federation, while the number of people who have died and (or)

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suffered damage to health is over 50, but no more than 500, or the amount of material damage is over RUB 12 million, but not more than RUB 1.2 billion;

- Emergency situation at a federal level — the number of people who have died and (or) suffered damage to health is over 500 or the amount of material damage is over RUB 1.2 billion.

467. Consequently, the main criteria that determine the classification of an emergency situation as an emergency of a corresponding nature are the number of people who have died and (or) suffered damage to health, and the amount of material damage.

468. At the same time, neither the Emergency Law nor the Resolution No. 304 provides for a period during which an emergency regime can be declared and continued.

469. The Emergency Law also contains the term “high alert mode” but does not establish its definition.

470. In addition to the terms “emergency situation” and “high alert mode”, the Emergency Law also provides for the concept of “mode of operation of management bodies and forces of the unified state system of emergency prevention and response”. These are “determined depending on the situation, forecasting the threat of an emergency and the occurrence of an emergency, the procedure for organizing the activities of the governing bodies and forces of the unified state system for the prevention and elimination of emergency situations and the main activities carried out by these bodies and forces in the mode of daily activities, with the introduction of a high alert mode or an emergency”.

471. The Emergency Law defines a unified state system of management bodies for the prevention and elimination of emergencies:

- in accordance with Article 80 of the Constitution of the Russian Federation and federal laws, the President of the Russian Federation determines the main directions of state policy and makes other decisions in the field of protecting the population and territories from emergencies;

- the Government of the Russian Federation decides to introduce a high alert or emergency situation on the entire territory of the Russian Federation or its part in the event of a threat and (or) an emergency of a federal or interregional nature;

- State authorities of the subjects of the Russian Federation make decisions on classifying emergency situations that have occurred as regional or inter-municipal emergencies and introduce a high alert or emergency mode for the relevant management bodies and forces of the unified state system for emergency prevention and response.⁴⁷⁸


⁴⁷⁸ Emergency Law. Article 11(m).

473. Additionally, Article 6 of the Federal Law No. 52-FZ attributes to the powers of the subjects of the Russian Federation the introduction and cancellation in the territory of the subject of the Russian Federation restrictive measures (quarantine) on the basis of proposals, orders of the chief state sanitary doctors and their deputies.

474. Restrictive measures (quarantine) are defined in Article 1 of the Federal Law No. 52-FZ as administrative, health-sanitary, veterinary, and other measures aimed at preventing the spread of infectious diseases and providing for a special regime of economic and other activities, restricting the movement of the population, vehicles, goods, cargos, and animals.

475. During the COVID-19 pandemic, no federal quarantine was introduced, but restrictive measures including self-isolation were introduced on the territory of all subjects of the Russian Federation by acts of the heads of the subjects of the Russian Federation with reference to the possibility of introducing a regional quarantine provided in Article 6 of the Federal Law No. 52-FZ.

476. The concept of self-isolation is used in the Resolution of the Chief state sanitary doctor of the Russian Federation dated March 30, 2020, No. 9 “On additional measures to prevent the spread of COVID-19”, by which the heads of the subjects of the Russian Federation (heads of the supreme executive bodies) are prescribed to ensure isolation and medical observation of the persons who returned to Russia, as well as the introduction of restrictive measures, including a regime of self-isolation.

477. In each subject of the Russian Federation, the features of the isolation regime (self-isolation) were determined taking into account the sanitary and epidemiological situation and the peculiarities of the spread of the new coronavirus infection.

1.3. COVID-19 Regulatory Framework

478. In connection with the spread of the coronavirus infection, the concept of a “state of emergency” in April 2020 has been clarified so that it now includes “the situation that has developed in connection with the spread of a disease that poses a danger to others”. These diseases included a new coronavirus infection (2019-nCoV).

479. Even before making changes to the legislation, the following bodies were promptly formed:

- The Coordination Council under the Government of the Russian Federation on combating the spread of the new coronavirus infection in the territory of the Russian Federation, whose main tasks are to develop proposals to combat the spread of COVID-19 and organize interaction between state authorities;

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480 Ibid. Article 6.
481 Ibid.
482 Federal Law No. 98-FZ.
• the working group of the State Council of the Russian Federation on countering the spread of a new coronavirus infection caused by 2019-NCOV;\textsuperscript{485}

• operational headquarters for the prevention of importation and spread of new coronavirus infection in the territory of the Russian Federation, created by the Government of the Russian Federation.\textsuperscript{486}

480. After clarifying the list of emergencies, the competence of the management bodies of the unified universal state system for the prevention and elimination of emergency situations\textsuperscript{487} began to extend to the situation that has developed due to the spread of the COVID-19.

481. In connection with the spread of the new coronavirus infection, the Emergency Law clarified the powers of the Government of the Russian Federation to introduce high alert and emergency modes (without specifying the validity period of the relevant provisions). Thus, if there is a threat of occurrence and (or) the occurrence of certain emergency situations, the Government of the Russian Federation has the right to:

• make a decision on the exercise of the powers of the coordinating body of the unified state system for prevention and elimination of emergency situations;\textsuperscript{488}

• make a decision on the introduction of a high alert or emergency situation on the entire territory of the Russian Federation or its part;\textsuperscript{489}

• establish mandatory rules of conduct for citizens and organizations when introducing a high alert or emergency situation.\textsuperscript{490}

482. In addition, the powers of the state authorities of the subjects of the Russian Federation were clarified, which, in particular, were empowered to establish rules of conduct that are binding on citizens and organizations when introducing a high alert or the threat of its occurrence to establish additional mandatory rules of conduct when the Government of the Russian Federation introduces a high alert or emergency situation.\textsuperscript{491}

483. It should be noted that no other federal legislation regulating the general response to emergencies caused by the spread of infections or other causes was adopted during the COVID-19 pandemic.

484. At the same time, several “anti-virus” legislative packages were developed and adopted.\textsuperscript{492} In particular, more than 30 federal laws have been adopted that affect almost all vital areas, including

\textsuperscript{485} Decree of the President of the Russian Federation No. 73-rp of March 15, 2020, “On the working group of the State Council of the Russian Federation on countering the spread of a new coronavirus infection caused by 2019-NCOV”.

\textsuperscript{486} The decisions on the results of the meeting in the Government of the Russian Federation on the prevention and control of the spread of coronavirus infection can be found here URL: http://government.ru/info/39357/.

\textsuperscript{487} The Regulations on the unified State system for the prevention and Elimination of emergency Situations [approved by the Decree of the Government of the Russian Federation of December 30, 2003, No. 794].

\textsuperscript{488} Federal Law No. 98-FZ. Article 2(2)(a).

\textsuperscript{489} Ibid. Article 2(3).

\textsuperscript{490} Ibid.

\textsuperscript{491} Ibid. Article 2(4)(a).

485. In addition to the above, the following decisions were made as a consequence of the spread of the coronavirus infection:

- until December 31, 2020, the Government of the Russian Federation was authorized to establish other cases of procurement of goods, works, and services for state and municipal needs in addition to the cases provided for in part 1 of Article 93 of Federal Law No. 44-FZ of April 5, 2013, "On the contract system of procurement of goods and services for state and municipal needs";

- Federal Law No. 294-FZ of December 26, 2008, "On the protection of the rights of legal entities and individual entrepreneurs in the exercise of state control (supervision) and municipal control" was amended, according to which, from April 1, 2020, to December 31, 2020, inspections are not carried out in respect of small businesses (unless otherwise established by the Government of the Russian Federation). The Government of the Russian Federation has the power to make decisions that provide for the specifics of organizing and implementing types of federal state control (supervision), as well as the specifics of licensing, accreditation, certification, state registration, conducting qualification exams and other licensing regimes;


- heads (heads of supreme executive public authorities) of the subjects of the Russian Federation on the basis of the sanitary-epidemiological situation and characteristics of the spread of the new coronavirus infection in the corresponding subject of the Russian Federation had the right to determine within the boundaries of the subject the territories where implementation of the set of restrictive and other measures is envisaged, as well as to establish a special order of movement in the territory of persons and vehicles.

486. As to a sunset clause, the legislation does not provide for the duration of the newly adopted amendments concerning the emergency powers of public authorities. This is probably due to the fact that the emergency powers themselves are already limited in advance by the term — the period for which the emergency is declared.

493 Federal Law No. 67-FZ.
494 Federal Law No. 164-FZ.
495 Federal Law No. 102-FZ; Federal Law No. 101-FZ dated April 1, 2020, "On amendments to Article 1 of the Federal Law 'On conducting an experiment to establish a special tax regime 'Tax on professional income'".
497 Federal Law No. 99-FZ.
499 Federal Law No. 98-FZ.
500 Decree of the President of the Russian Federation No. 239 of April 2, 2020, "On measures on ensuring sanitary and epidemiological welfare of the population on the territory of the Russian Federation in connection with the spread of new coronavirus infection [COVID-19]"; Decree of the President No. 316 of May 11, 2020, "On determination of the procedure for the renewal of measures on ensuring sanitary and epidemiological welfare of the population in subjects of the Russian Federation in connection with the distribution of new coronavirus infection [COVID-19]".
2. Measures Taken in the Fight Against the COVID-19 Pandemic

487. The Government of the Russian Federation adopted a variety of measures aimed at combating the spread of the new coronavirus disease in the Russian Federation and support measures to achieve a gradual recovery of business and personal activity in the aftermath of the pandemic.

488. The heads of the supreme executive bodies of the Russian Federation subjects have the right to establish restrictive and other measures, as well as the introduction of a special order of movement on the basis of adopted acts [paras. 481–482 of Annex 2 to the Analytical Report]. This distribution of authority means decentralized decision-making to address the COVID-19 pandemic.

2.1. General Measures

Transport

489. A set of measures was introduced in the field of international communication, in particular:

- regular and charter flights from Russian airports to foreign airports and in the opposite direction were suspended;\(^501\)

- entry in the country was suspended for all foreign citizens,\(^502\) and traffic through road, rail, pedestrian, river, and mixed checkpoints on the state border of the Russian Federation was restricted;\(^503\)

- flights for the transportation of foreign citizens to foreign countries,\(^504\) as well as for transportation of Russian citizens from foreign countries were organized;\(^505\)

- social support (assistance) was provided for the Russian citizens located on the territories of foreign countries.\(^506\)

490. In most cases, the relevant legal acts indicated the temporary nature of the restrictions or established the terms of the support measures or the restrictions imposed.

\(^501\) Decision on the results of the meeting of the Presidium of the Coordination Council under the Government of the Russian Federation on combating the spread of the new coronavirus infection in the Russian Federation.


\(^505\) Order of the Government of the Russian Federation No. 767-R of March 28, 2020, “On allocation of budget appropriations for reimbursement of expenses incurred in regard to the implementation of measures for the transportation of citizens of the Russian Federation and citizens of other states from foreign countries with an unfavorable epidemiological situation associated with the spread of the new coronavirus infection”.

\(^506\) Order of the Government of the Russian Federation No. 868-R of April 3, 2020, “On provision of social support (assistance) to Russian citizens located on the territories of foreign countries and being unable to return to the Russian Federation due to the spread of the new coronavirus infection”;

Resolution of the Government of the Russian Federation No. 433 of April 3, 2020, “On approval of the Regulation on provision of social support (assistance) to Russian citizens located on the territories of foreign countries and being unable to return to the Russian Federation due to the spread of the new coronavirus infection”;

Order of the Government of the Russian Federation No. 1407-R of May 28, 2020, “On provision of social support (assistance) to Russian citizens located on the territories of foreign countries and being unable to return to the Russian Federation due to the spread of the new coronavirus infection”.

Public Health

A number of acts were adopted, which:

- provide for the state regulation of prices for pharmaceuticals;\(^{507}\)
- allow the remoted retail sale of pharmaceuticals;\(^{508}\)
- simplify procedures for state registration of medical devices;\(^{509}\)
- establish specifics of the implementation of the basic program of compulsory medical insurance;\(^{510}\)
- provide budget appropriations for the implementation of priority measures in the healthcare sector;\(^{511}\)
- provide the possibility to repurpose medical organizations;\(^{512}\)
- allocate more than RUB 33.4 billion\(^{513}\) from the Reserve Fund of the Government to the subjects of the Russian Federation to equip 95,000 beds with oxygen supply systems;\(^{514}\)
- suspend limitations on the import of medical products until September 30, 2020;\(^{515}\)

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\(^{507}\) Federal Law No. 67-FZ.

\(^{508}\) Decree of the President of the Russian Federation No. 187 of March 17, 2020, “On pharmaceuticals retail trade for medical use”.


\(^{512}\) Order of the Government of the Russian Federation No. 844-R of April 2, 2020, “On approval of lists of organizations and their structural divisions that shall carry out inpatient medical activities under the jurisdiction of Federal Executive authorities and private medical organizations that shall be repurposed to provide inpatient medical care to patients with a confirmed diagnosis of the new COVID-19 coronavirus infection or suspected having new COVID-19 coronavirus infection”.


\(^{514}\) Repurposing hospitals. URL: http://government.ru/support_measures/measure/30/.

\(^{515}\) Decision of the Council of the Eurasian Economic Commission No. 38 of April 8, 2020, “On amendments to the decision of the Council of the Eurasian Economic Commission No. 21 of March 16, 2020”.

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• impose a moratorium on implying penalties on medical organizations;\textsuperscript{516}

• establish a preferential duty on medical products for the period of March 16 — September 30, 2020;\textsuperscript{517}

• temporarily suspend the all-Russian periodic medical examination of the adult population of the Russian Federation.\textsuperscript{518}

492. This set of measures is mainly aimed at supporting the health system and ensuring the rights of citizens in the healthcare sector.

493. The validity period of these measures is often not specified, some of them are of a one-time nature. Specific terms and periods of action are set for individual measures.

\textit{Education}

494. Changes\textsuperscript{519} have been made to ensure the remote implementation of educational programs, as well as the state final examinations\textsuperscript{520} on the results of basic professional educational programs, using e-learning and distance learning technologies\textsuperscript{521}, as well as remote meetings of dissertation councils.\textsuperscript{522}

495. This set of measures is protective and is aimed at preventing the spread of infection.

496. The period of validity of the measures is not set. Based on the fact that the measures introduced are not restrictive, they may be preserved in the future for an indefinite period.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

497. By the Decree of the President of the Russian Federation No. 239 of April 2, 2020, “On measures on ensuring sanitary and epidemiological welfare of the population on the territory of the Russian

\textsuperscript{514} Resolution of the Government of the Russian Federation No. 409.
\textsuperscript{517} Decision of the Council of the Eurasian Economic Commission No. 21 of March 16, 2020, “On amendments to certain decisions of the Customs Union Commission and on approval of the list of goods imported into the customs territory of the Eurasian Economic Union in order to implement measures by the member states of the Eurasian Economic Union aimed at preventing the spread of the coronavirus infection 2019 – nCoV”.
\textsuperscript{519} Federal Law No. 164-FZ.
\textsuperscript{521} Order of the Ministry of Science and Higher Education of the Russian Federation No. 397 of March 14, 2020, “On the organization of educational activities in organizations that implement educational programs of higher education and related additional professional programs in order to prevent the spread of the new coronavirus infection in the territory of the Russian Federation”.
\textsuperscript{522} Resolution of the Government of the Russian Federation No. 751 of May 26, 2020, “On the specifics of holding meetings of councils on the defense of dissertations for the degrees of Candidate of Sciences and Doctor of Sciences during the period of measures aimed at preventing the spread of the new coronavirus infection in the territory of the Russian Federation”.

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Federation in connection with the spread of the new coronavirus infection (COVID-19) senior officials (heads of supreme executive public authorities) of the subjects of the Russian Federation were ordered to ensure the development and implementation of a set of restrictive and other measures, in particular, to suspend (restrict) activities on the territory of organizations regardless of their form of business and form of incorporation, as well as individual entrepreneurs.

498. In this regard, restrictive measures against industrial and non-productive sectors were established not at the federal (i.e., not on the territory of the entire country), but at the regional level. As a result, restrictive measures differ depending on the subject of the Russian Federation and the sanitary and epidemiological situation and specifics of the spread of the new coronavirus infection in a particular subject of the Russian Federation.

499. The result of the above was the amendments to the Administrative Code of the Russian Federation aimed at clarifying the administrative responsibility for certain offenses in public health protection in the Russian Federation. Administrative responsibility was introduced for failure to comply with the rules of conduct in case of an emergency or threat of its occurrence.

500. In addition, the provisions of the Administrative Code of the Russian Federation regulating liability for violations of legislation in the field of ensuring sanitary and epidemiological welfare of the population during an emergency or in case of a threat of spreading a disease that is dangerous to others were updated.

501. The specified offense entails the imposition of an administrative fine from RUB 50,000 to RUB 150,000 or administrative suspension of activity for up to 90 days for individual entrepreneurs and from RUB 200,000 to RUB 500,000 or administrative suspension of activity for up to 90 days for legal entities. If an administrative offense has caused harm to human health or death of a person, if these actions (inaction) do not include a criminal offense, it shall entail the imposition of an administrative fine from RUB 500,000 to RUB 1 million or administrative suspension of activities for up to 90 days for individual entrepreneurs and from RUB 500,000 to RUB 1 million or administrative suspension of activities for up to 90 days for legal entities.

2.3. Containment Measures Regarding Population

502. DPRF No. 239 provides for the possibility of establishing restrictive and other measures by acts of the heads (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement.

503. In this regard, restrictive measures against the population were established not at the federal (i.e., not on the territory of the entire country), but at the regional level. As a result, restrictive measures differ depending on the subject of the Russian Federation and the sanitary and epidemiological situation and specifics of the spread of the new coronavirus infection in a particular subject of the Russian Federation.

504. Administrative responsibility was introduced for violation of legislation in the field of ensuring sanitary and epidemiological welfare of the population during an emergency or in case of a threat of spreading a disease that is dangerous to others (para. 501 of Annex 3 to the Analytical Report).

505. At the federal level, laws and by-laws have not been challenged or legally evaluated by the judiciary.

523 Decree of the President of the Russian Federation No. 239 of April 2, 2020, “Concerning measures ensuring the sanitary and epidemiological welfare of the population in the Russian Federation due to the spread of the novel coronavirus infection (COVID-19)”.
524 Federal Law No. 99-FZ.

506. A number of measures taken by regional authorities have been challenged in the courts. For example, the Moscow City Court dismissed a class action lawsuit against the Mayor of Moscow in relation to the introduction of digital passes in Moscow,\footnote{Moscow City Court. URL: https://mos-gorsud.ru/fastsearch?q=%E2%84%963%D0%B0-3877%2F2020&page=1.} also the Moscow City Court dismissed claims against the Mayor of Moscow challenging fines in relation to violations of self-isolation,\footnote{Moscow City Court. URL: https://mos-gorsud.ru/fastsearch?q=нарушение+режима+самоизоляции&page=1.} and others. However, many of the claims regarding self-isolation violations were upheld by the court.\footnote{Ibid.}

2.4. Support Measures for Industrial and Non-Productive Sectors

507. In order to take support measures for the industrial and non-productive sectors, a large number of regulatory documents were adopted, providing, among other things, the following:

- tax holidays are provided for the affected industries (from 3 to 12 months);\footnote{Federal Law No. 102-FZ; Resolution of the Government of the Russian Federation No. 409.}
- SMEs and organizations from the industries most affected by the coronavirus epidemic are exempt from taxes, fees, and insurance premiums for the second quarter of 2020;\footnote{Federal Law No. 172-FZ of June 8, 2020, “On amendments to part two of the Tax Code of the Russian Federation”.}
• interest-free salary loans are provided for companies in the affected industries;\textsuperscript{534}
• programs of preferential loans at the rate of 8.5% and microloans for SMEs have been expanded;\textsuperscript{535}
• insurance premiums have been reduced from 30% to 15% in respect of salaries for organizations and individual entrepreneurs;\textsuperscript{536}
• the deadline for submitting reports to the Federal Tax Service has been postponed for up to 3 months;\textsuperscript{537}
• a moratorium on the tax sanctions for non-submission of documents, the deadline for submission of which falls on the period from March 1 to June 1, 2020 has been introduced;\textsuperscript{538}
• all on-site inspections, including tax and customs inspections, have been suspended until June 30, 2020;\textsuperscript{539}
• 6-month bankruptcy moratorium has been introduced for the affected industries.\textsuperscript{540}

508. In the context of self-isolation and the restrictions imposed, all support measures were presented on the websites of public authorities in order to facilitate public information and ensure prompt access to them.\textsuperscript{541}

509. In addition to the federal measures, regional support measures and initiatives were taken (Table 5, Table 6).

510. The authorities of the subjects of the Russian Federation have also established special business support centers and launched various initiatives on the Internet, for example, the Center for Support of the Moscow Economy created by the decision of the Operational Headquarters for the Moscow Economy.\textsuperscript{542}

\textsuperscript{535} Resolution of the Government of the Russian Federation No. 372 of March 31, 2020, “On amendments to the Rules for granting subsidies from the federal budget to Russian credit organizations and specialized financial companies for reimbursement of lost income on loans issued in 2019-2024 to small and medium-sized businesses, as well as individuals applying the special taxation scheme ‘Professional Income Tax’ at a preferential rate”.
\textsuperscript{536} Federal Law No. 102-FZ.
\textsuperscript{537} Ibid; Resolution of the Government of the Russian Federation No. 409.
\textsuperscript{538} Federal Law No. 102-FZ.
\textsuperscript{539} Ibid.
\textsuperscript{539} Ibid.
\textsuperscript{542} The Center for Support of the Moscow Economy. URL: https://helpmoscoweconomy.ru/about.
2.5. Support Measures for Population

In order to take support measures for the population, a large number of regulatory documents were adopted, providing, among other things, the following:

- repayment holiday for citizens have been introduced;¹⁴¹
- the validity period of some documents, namely, passports and driver’s licenses has been extended;¹⁴²
- the validity period of migration documents has been extended;¹⁴³
- procedures for obtaining public services have been simplified: citizens do not need to collect certificates to receive social support;¹⁴⁴
- remote registration in the public employment service has been simplified;¹⁴⁵
- unemployment benefits have been increased;¹⁴⁶
- period of unemployment benefits has been extended for 3 months, but shall end no later than on October 1, 2020;¹⁴⁷
- a set of measures is established to support families with children: various payments for children aged 3–7,¹⁴⁸ 3–16,¹⁴⁹ above 3 in April-June;²⁰³

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¹⁴³ Decree of the President of the Russian Federation No. 274 of April 18, 2020, “On temporary measures to regulate the legal status of foreign citizens and stateless persons in the Russian Federation in connection with the threat of the further spread of the new coronavirus infection [COVID-19]”.
¹⁴⁵ Resolution of the Government of the Russian Federation No. 460 of April 8, 2020, “On approval of Temporary rules for registering citizens in order to find suitable work and as unemployed, as well as for providing social payments to citizens recognized as unemployed in accordance with the established procedure”.
²⁰³ Ibid.
• incentive payments are established for extra-duty assignments and additional workload for medical workers.\textsuperscript{553}

512. The period of duration for such support measures is provided. In general, it does not exceed 6 months.

\textsuperscript{553} Regulation of the Government of the Russian Federation No. 852-R of April 2, 2020, “On approval of distributing other intergovernmental transfers provided in 2020 from the federal budget to the budgets of the Russian Federation subjects, the financial support source of which is budget appropriations of the reserve fund of the Government of the Russian Federation, for the purposes of co-financing, including in full the expenditure commitments of the Russian Federation subjects arising from implementation of incentive payments for extra-duty assignments and additional workload for medical workers who provide medical assistance to citizens diagnosed with the novel coronavirus infection and persons at novel coronavirus infection risk”.
ANNEX 4. “SECOND WAVE” RESPONSE TO THE COVID-19 PANDEMIC BY STATES

I. France

Summary

1. The state of health emergency that was introduced on March 23, 2020, was withdrawn on July 10, 2020. However, facing a new exponential growth of infections, the President decreed it again on October 14, 2020. Since then, the Statutes No. 2020-1379 and No. 2021-160 have intervened extending the state of health emergency until June 1, 2021. Using the powers stemming from the state of health emergency, the Government imposed a new lockdown until mid-December followed by a curfew from 18:00 to 6:00. In addition to that, in March 2021, facing a deterioration of the epidemic situation, local lockdowns on weekends were ordered.

2. Immediately after the first wave of the COVID-19 pandemic, Prime Minister Édouard Philippe gave his resignation to President Emmanuel Macron. This led to a new Government directed by Prime Minister Jean Castex. Since then, economic recovery has been clearly put into priority, and this is shown by the decree regarding the Ministry of Economic Affairs and the creation of the Planning High Commissioner.

3. Depending on the destination of departure, certain public transportation is still limited. A negative COVID-19 test of no more than 72 hours is mandatory to enter the French territory. Other restrictions are still in force, though a lot of businesses could open again during summer 2020. Since October 2020, certain types of businesses, including bars and museums, had to close again. Some remained closed since March 2020 (for instance, dance clubs). To assist such businesses, the Government maintained the main support measures — the state warrantee and the solidarity fund of short-term working arrangement.

4. The vaccination campaign started in December 2020 and is supposed to go in five steps. Priority was given to the elderly citizens and people presenting serious comorbidities according to the recommendation of the High Health Authority. Now, along with vaccination of the population, the strategy of the State combines the identification and interruption of infection chains through intensive testing, the use of the information system warning exposed people and the app “TousAntiCovid”.

5. Acknowledging that it will take time to return to normal life, the State also granted cash transfers to the poorest part of the population as well as extended social rights during the second state of health emergency. In addition to that, paid sick leaves are granted to those who had contacts with an infected person. One may declare such a fact to the National Social Security on its website by fulfilling a simple form without a need for a doctor’s appointment.

6. As for the court practice, the Constitutional Council was approached only once — when challenging the Law No. 2020-546 extending the state of health emergency (para. 45 of Annex 3 to the Analytical Report). The decision of the Constitutional Council gave a detailed decision, but showed very little control over the decision on the extension of the state of health emergency — the Constitutional Council stated

554 Information in Annex 4 is presenting the “second wave” response to the COVID-19 pandemic by States and relevant as of March 2021.
that it was only the Parliament that may assess the need for such extension. This decision correlates with its former decisions on the state of health emergency.

7. As for the practice of administrative courts, a large diversity of claims (invoking civil liberties, freedom of religion, privacy rights, right to life) have been brought before them. However, most of them were brought under an accelerated procedure, the so-called “référé-liberté”, setting a very high standard of proof. Therefore, it is not surprising that most claims have been rejected. Nevertheless, few successes indicate the Council of State (Supreme court for administrative litigations) will not hesitate to suspend restrictive measures if unproportional. Also, where the freedom of religion is affected the judgment can be different depending on the situation with the epidemic. Hence, the judge is led to assess a situation from a scientific point of view relying on official statistics and recommendations of scientific public authorities.

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

8. Since July 2020, there was no change in the Constitution or the legislation. The state of health emergency was declared by the Law No. 2020-290 (paras. 21–28 of Annex 3 to the Analytical Report). It is the legal framework used to provide extensive powers to the Government to address the COVID-19 crisis.

1.1. Institutional Changes

Government Shuffle

9. On July 3, 2020, Prime Minister Edouard Philippe resigned. A new Government was formed and is now led by the new Prime Minister Jean Castex. The Ministry of Economic Affairs and Finances became the Ministry of Economic Affairs, Finances and Economy Recovery. This was done to highlight the focus on the economic consequences of the pandemic. As such, Article 1(1) of the Decree No. 2020-871 states that the Minister of Economic Affairs “shall execute the recovery plan for an economic rebound following the epidemic of COVID-19”. Hence, the ministry will conduct the response to the economic consequences of the crisis.

Creating a Position of the Planning High Commissioner

10. The Decree No. 2020-1101 adopted on September 1, 2020, instituted a Planning High Commissioner. Attached to the Prime Minister (Article 4), his or her mission is to be in charge of research to help public authorities to plan demographic, economic, social, environmental, sanitary, technologic, and cultural matters (Article 1). It sheds some light on the State’s endeavor to adopt a new approach to economic affairs. In order to better anticipate the forthcoming economic consequences after the COVID-19 crisis, this High Commissioner will advise the Government on long-term perspectives in his or her field of competence.

555 Decree No. 2020-871 regarding the attributions of the Minister of Economic Affairs, Finances and Economy Recovery (July 15, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042121191/ (the date of access: March 31, 2021).

556 Decree No. 2020-1101 instituting a Planning High Commissioner (September 1, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042297092/ (the date of access: March 31, 2021).
1.2. Legal Framework

State of Health Emergency

11. The State of health emergency ended on July 10, 2020. Nevertheless, the Statute No. 2020-856, adopted on July 10, 2020, still granted extensive powers to the Government until October 30, 2020, in case infections occur again.557 Due to the evolution of the pandemic, the state of health emergency was decreed again on October 14, 2020, for a month.558 The state of health emergency was then extended by the Statute No. 2020-1379 until February 16, 2021.559 Furthermore, the Statute No. 2021-160, adopted on February 15, 2021, provided a new extension of the state of health emergency until June 1, 2021.560 These statutes were adopted through fast-track proceedings [para. 22 of Annex 3 to the Analytical Report].

Delegation of Legislative Power

12. Article 38 of the French Constitution gives Parliament the possibility to delegate its powers to the Government for a specific time and in a determined field. Acts adopted by the Government upon this delegation are called “Ordinances”. During the first state of health emergency, the Statute No. 2020-290561 operated a wide delegation of power to the Government to intervene in the purview of statutory law [para. 25 of Annex 3 to the Analytical Report]. During the second state of health emergency, Article 10 of the Statute No. 2020-1379 provided for similar delegation of power to the Government. By its effects, the Government can adopt ordinances which acquire the value of a statute after ratification by the Parliament [para. 30 of Annex 3 to the Analytical Report]. The statute mostly covers interventions in economic matters to cope with the crisis due to the pandemic, safeguard jobs and prevent bankruptcies. A constitutional claim was brought against the second delegation of power [paras. 36–44 of Annex 4 to the Analytical Report].

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

Transport

Common Measures

13. Going to French overseas territories by boat (Article 6(V) of the Decree No. 2020-1310) or by plane (Article 11(II) of the Decree No. 2020-1310) is still possible. Although, a negative COVID-19 test of less than 72 hours must be presented when boarding. The requirement for a negative test also applies to travelers coming from foreign countries if their country of departure is in the list mentioned in Annex 2ter of the Decree No. 2020-1310. In the beginning, every country outside the EU was on the list, but the list is empty. 

557 Statute No. 2020-856 organizing the end of the state of health emergency (July 9, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042101318/ (the date of access: March 31, 2021).
558 Decree No. 2020-1257 declaring the state of health emergency (October 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/texte_jo/JORFTEXT000042424377 (the date of access: March 31, 2021).
559 Statute No. 2020-1379 authorizing the extension of the state of health emergency and providing several measures for managing the health crisis (November 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042520662 (the date of access: March 31, 2021).
since January 15, 2021, when the Decree No. 2021-31 was adopted. Also, any passenger of a boat or a plane must have a statement on oath testifying not having any symptoms of COVID-19 or not having been in contact with an infected person 14 days before the trip. Passengers must wear a protective face mask at any time. Managers of ferry terminals (Article 7) and airports (Article 12) can monitor passengers’ temperature and deny them boarding in case of a refusal to take the test.

**Boats**

14. Article 6 of the Decree No. 2020-1310 forbids any cruise boat to stop in French territorial seas. Circulation of boats with habitations onboard can only be authorized by a local Prefect. For other kinds of boats, the Prefect can verify the health measures implemented onboard and forbid them to stop in the harbors under his or her jurisdiction.

**Planes**

15. Article 10 of the Decree No. 2020-1310 suspends flights between the mainland and three French overseas territories (French Polynesia, New-Caledonia, and Wallis and Futuna), except for compelling personal reasons, health emergencies, or professional requirement which cannot be postponed.

**Land Transport**

16. Ski lifts were closed by the Decree No. 2020-1519 which modified Article 18 of the Decree No. 2020-1310.

**Public Health**

**Vaccination Campaign**

17. The Decree No. 2020-1691 modified the Decree No. 2020-1310 inserting in it Article 53(1) related to the vaccination campaign. Only vaccines listed in Annex 4 of the Decree No. 2020-1310 can be administered. The National Agency for Public Health buys them and their provision is free of charge. A Ministerial Instruction divided the vaccination campaign into five phases. First, old people living in retirement and health care facilities and their caregivers (if they are over 75 and/or have comorbidity) shall be vaccinated. Then, the vaccination is open to people over 65 and to health workers over 50. In the third phase, the threshold will be lowered to those over 50 years old and the vaccination will be possible for every health worker and people presenting health conditions. The fourth phase targets people in precarious conditions, people living collectively in prisons, psychiatric facilities, or foster care residences. Eventually, in the fifth phase, every person over 18 will have access to the vaccination. The remuneration of health workers working overtime to vaccinate is fixed by an Order.

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565 Order modifying the Order adopted on July 10, 2020, prescribing the organization of the health system to face the COVID-19 health emergency (February 5, 2021). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043099878 (the date of access: March 31, 2021).
Evolution of the Tracing App

18. Originally, a tracing app called "Stop Covid" was put in place to alert its users in case of exposure to a contagious person.566 According to the President of the Republic, the app did not function well because only a small part of the population downloaded it.567 After some months, it had only a few hundreds of users. Admitting this failure, a new app "TousAntiCovid", which relied on the same processing of data as its predecessor, was released on October 22, 2020.568 By March 5, 2020, 13,377,204 people had downloaded the app, 167,580 users had declared having COVID-19, and 96,419 had been warned by the app of exposure to COVID-19.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

19. During the summer of 2020, most businesses could open again when respecting governmental measures (fewer clients, a social distance between groups of people, etc.) with the exception of nightclubs.569 During the beginning of the second wave of COVID-19 in large cities, Prefects set an early closing time for bars at 22:00, such as in Paris starting from September 28, 2020, or in the Gard department from October 16, 2020.570

20. Articles 40, 42, 43 and 45 of the Decree No. 2020-1310 imposed a closure on bars, restaurants, sports facilities, and concert halls. Places of worship remained open, but gatherings there were forbidden except for funerals within a limit of 30 people (Article 47(I) of the Decree No. 2020-1310). Schools did not close this time (Article 33 of the Decree No. 2020-1310).

566 It was created by the Decree No. 2020-650 concerning the treatment of data named “Stop Covid” (May 29, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041936881/ (the date of access: March 31, 2021).


569 See Art. 45(I) of the Decree No. 2020-860 prescribing general measures with respect to the COVID-19 pandemic during the state of health emergency (July 10, 2020) (URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042105897 (the date of access: March 31, 2021)) and, then, Art. 45(I) of the Decree No. 2020-1262 prescribing general measures with respect to the COVID-19 pandemic during the state of health emergency (October 16, 2020) (URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042430554 (the date of access: March 31, 2021)).

570 The Order of the Prefect of Paris is not available on the Internet. For the Gard, see the Order No. 30-2020-10-17-001 (October 16, 2020). URL: https://www.gard.gouv.fr/content/download/38978/268529/file/arr%C3%AAt%C3%A9%20du%2020%20octobre%202020%20COVID.pdf (the date of access: March 31, 2021).
2.3. Containment Measures Regarding Population

21. On October 14, 2020, the state of health emergency was redeclared by the Decree No. 2020-1257.\textsuperscript{571} Two days later, Article 3 of the Decree No. 2020-1262\textsuperscript{572} extended powers to impose restrictions to Prefects "whenever local circumstances required it". This specifically concerns the situation when the health care system becomes critically overloaded. In addition, Article 51 of the Decree No. 2020-1262 entitles Prefects to order curfews between 21:00 and 6:00 for the "purpose of containing the virus".

22. In Paris, on October 17, 2020, the Prefect issued the order forbidding parties in public facilities and also put in place a curfew from 21:00 to 6:00.\textsuperscript{573} The right of assembly was strictly limited to a maximum reunion of 6 people in public space (Article 3 of the Decree No. 2020-1262).

23. These rules were quickly followed by the declaration of a new national lockdown by Article 4 of the Decree No. 2020-1310 of October 19, 2020.\textsuperscript{574} This Article listed exceptions which included:

- commuting between homes and workplaces and going to places that are organizing official exams or contests;
- visiting doctors and buying medications;
- leaving home in case of a family emergency, bringing assistance to vulnerable people, and babysitting;
- disabled people and their caregiver could also go out;
- every individual could also go out within the limit of one daily hour and within a radius of one kilometer around his or her place of residence.

24. For any of these derogations, a statement available on the Internet or the official app "TousAntiCovid" had to be filled out.

25. The second lockdown eventually came to an end on December 15, 2020. It was replaced by the national curfew from 20:00 to 6:00 every day.\textsuperscript{575} Article 2 of the Decree No. 2021-21 adopted on January 15, 2021.

\textsuperscript{571} Decree No. 2020-1257 declaring the state of health emergency (October 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/texte_jo/JORFTEXT0000424243772 [the date of access: March 31, 2021].

\textsuperscript{572} Decree No. 2020-1262 prescribing general measures with respect to the COVID-19 pandemic during the state of health emergency (October 16, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042430554 [the date of access: March 31, 2021].

\textsuperscript{573} Prefectoral order No. 2020-00863 (October 17, 2020). URL: https://cdn.paris.fr/paris/2020/10/20/5fe89a93535b900d2c706b5944ed4b63d.pdf [the date of access: March 31, 2021].

\textsuperscript{574} Decree No. 2020-1310 prescribing general measures with respect to the COVID-19 pandemic during the state of health emergency (October 29, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT0000424575143 [the date of access: March 31, 2021].

\textsuperscript{575} The Decree No. 2020-1582 was modified by the Decree No. 2020-1310 (December 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042665612 [the date of access: March 31, 2021].
2021, set the curfew earlier at 18:00. Article 4 of the Decree No. 2020-1310 provided for the same derogations as during the first lockdown with an exception of a daily hour people could use to go out.

26. The curfew did not work well enough since some areas of France experienced a significant increase of infections. In reaction to this, the Government opted for a new strategy of local lockdowns during weekends in some parts of France. For instance, a local lockdown was put in place in some of municipalities in the department of Alpes-Maritimes by the Order of the Prefect. Exceptions that were listed in the Order included first necessity shopping, one daily hour of exercise within a radius of five kilometers from a residence place, consultation with a lawyer, commuting to a place of cult, or participating in activities in public space when they are not forbidden. A statement also had to be filled out when derogating from the lockdown.

2.4. Support Measures for Industrial and Non-Productive Sectors

27. The state warrantee for loans to companies (para. 49 of Annex 3 to the Analytical Report) was extended until June 30, 2021. The payments under the solidarity fund for SMEs (para. 49 of Annex 3 to the Analytical Report) were also extended until the same date. State-funded short-time working arrangement (para. 49 of Annex 3 to the Analytical Report) (activité partielle) for temporarily closed businesses or reduced working time companies was extended until December 31, 2021.

28. Sectors particularly impacted by restrictive measures adopted to stop the spread of the virus (bars, clubs, gyms, and others) benefited of a higher short-time working arrangement allowance (70% instead of 60%).

29. Regarding modifications of statutory and contractual rights, employers were entitled to request employees to modify the date of a maximum of 10 of their resting days, and increase their working time up to 12 hours if their activity was qualified as necessary to ensure the continuity of the socio-economic life of...
the nation ([para. 49 of Annex 3 to the Analytical Report]). Initially, these measures applied until December 31, 2020, but then they were extended until June 30, 2021.

30. Social partners have been consulted for the use of short-time working arrangements and smart working. A new national inter-professional agreement regarding smart working was enacted on November 26, 2020. It raised a peculiar awareness about the potential loss of social bonds it could cause. Furthermore, during working hours, the employer must be able to make sure an employee is working. To this end, the employee must be available by the regular means of communication used in the workplace. Nevertheless, this must not threaten the employees’ right to disconnection and his or her private life.

2.5. Support Measures for Population

Emergency Cash Transfers

31. A policy of cash transfers started in May 2020 with an exceptional solidarity subsidy of EUR 150 per household to people who were eligible to minimal welfare payments ([para. 54 of Annex 3 to the Analytical Report]). In the same manner, another exceptional subsidy of EUR 200 was granted to adults under 25 years old eligible to housing subsidy, who were not students or, in the case they were, who had an employment contract. These two subsidies were not cumulative: the payment of one excluded the possibility to apply for the other. They were both renewed in November 2020 with an amount of EUR 150. Moreover, EUR 100 per child supported by the household was added to it. Also, registered job seekers who had worked at least 138 days in 2019 could earn an exceptional monthly bonus reaching up to EUR 900 when no other public subsidies were available. Article 3 of the Decree No. 2020-1785 provides for an opportunity to apply for the bonus from November 2020 to May 2021.

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582 Ordinance No. 2020-323 providing urgent measures regarding paid leaves, working time, and resting days (March 25, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041755940/ (the date of access: March 31, 2021).

583 Ordinance No. 2020-1597 providing urgent measures regarding paid leaves, working time, and resting days (December 16, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042677355 (the date of access: March 31, 2021).

584 National inter-professional agreement for a successful use of smart working (November 26, 2020). URL: https://www.fntp.fr/sites/default/files/content/26112020_ani_teletravail.pdf.

585 Decree No. 2020-519 granting an exceptional solidarity subsidy to the most precarious households in link to the health emergency (May 5, 2020). URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000041849630/ (the date of access: March 31, 2021).

586 Decree No. 2020-769 granting an exceptional solidarity subsidy to the most precarious youngsters under 25 in link to the health emergency (June 24, 2020). URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000042032514 (the date of access: March 31, 2021).

587 Decree No. 2020-1453 granting an exceptional solidarity subsidy to the most precarious households and youngsters under 25 in link to the health emergency (November 27, 2020). URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000042574431 (the date of access: March 31, 2021).

588 Decree No. 2020-1785 creating an exceptional bonus to some registered job seekers (December 30, 2020). URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000042840343 (the date of access: March 31, 2021).

589 See Art. 1 of Decree No. 2020-1785. URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000042860343 (the date of access: March 31, 2021).
Extension of Social Subsidies

32. During the first lockdown, social subsidies, including invalidity pensions, State Medical Aid (the State takes in charge of medical fees of illegal immigrants), and unemployment allowances were extended (para. 54 of Annex 3 to the Analytical Report). This measure was reproduced for the second lockdown. The Ordinance No. 2020-1442 restored the extension of social subsidies, which were supposed to come to an end between October 30, 2020, and a date fixed by an Order that cannot exceed the date of the end of the state of health emergency.\footnote{Ordinance No. 2020-1442 restoring urgent measures regarding replacement incomes mentioned at art. L. 5421-2 Labor Code (November 25, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042564931 (the date of access: March 31, 2021).} Since then, every month an Order is enacted to postpone the date of ending the state of health emergency to the following month.\footnote{Order (December 9, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042658105 (the date of access: March 31, 2021); Order (December 23, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042742407 (the date of access: March 31, 2021); Order (January 12, 2021). URL: https://www.legifrance.gouv.fr/jorf/texte_jo/JORFTEXT000042953062 (the date of access: March 31, 2021); Order (January 30, 2021). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043081141 (the date of access: March 31, 2021).}

33. Decree No. 2020-928 provided special measures regarding unemployment allowances of entertainment workers and artists. These allowances were extended until August 31, 2021. Also, conditions for a new application to these allowances in September 2021 were eased.\footnote{Decree No. 2020-928 providing urgent measures regarding unemployment allowances for artists and entertainment workers (July 29, 2020). URL: https://www.legifrance.gouv.fr/loda/id/JORFTEXT000042170029/ (the date of access: March 31, 2021).}

Paid Sick Leaves and Occupational Disease

34. In November 2020, during the second lockdown, paid sick leaves were granted to healthy people if they had to stay at home because they were particularly vulnerable to COVID-19 or lived with a person who was vulnerable. It also applied if they were placed in isolation because they had been in contact with an infected individual or if they had a child under 16 years old at home because of being vulnerable, disabled, or placed in isolation.\footnote{Decree No. 2020-1386 (URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042521293 (the date of access: March 31, 2021)) modifying the Decree No. 2020-73 (November 14, 2020) (URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000041513432 (the date of access: March 31, 2021)).} In January 2021, the Decree No. 2021-13 merged paid sick leaves for healthy people and people infected with COVID-19 as well as it entailed the suspension of the waiting period for the payment [Articles 1 and 2 of the Decree No. 2021-13].\footnote{Decree No. 2021-13 providing derogations for paid sick leaves provided by Art. L. 1226-1 of the Labor Code and derogations to conditions of insurance by the state social security to fight against the epidemic of COVID-19 (January 8, 2021). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042895619 (the date of access: March 31, 2021).} Also, for people placed in isolation or being infected with COVID-19, a sick leave for a maximum of four days without a waiting period could be granted by filling out an online form on the social security website [Article 3 of the Decree No. 2021-13].\footnote{Assurance Maladie. Demande d’arrêt de travail dans l’attente des résultats d’un test Covid: ouverture d’un teleservice (January 15, 2021). URL: https://www.ameli.fr/paris/assure/actualites/demande-arret-de-travail-dans-lattente-des-resultats-dun-test-covid-ouverture-dun-teleservice (the date of access: March 31, 2021).}
COVID-19 infection was recognized as an occupational disease only for workers in health facilities.\textsuperscript{596}

3. Court Practice With Respect to the COVID-19 Pandemic

3.1. Constitutional Council

\textit{Decision No. 2020-808 DC \textquotedblleft authorizing the extension of the state of health emergency and providing several measures for managing the health crisis\textquotedblright\ (November 13, 2020)}

36. The Constitutional Council was seized by deputies and senators before the Statute No. 2020-1379 came into force.\textsuperscript{597}

37. Firstly, they contested the extension of the state of health emergency, which, according to them, did not comply with the proportionality test. In the view of some of them, it imposed too serious restrictions on constitutional rights and freedoms, especially the right to freedom of movement, privacy rights, economic freedom, and the right to freedom of expression. For others, an extension of the state of health emergency for four more months was too long that allowed to impose restrictions on the rights and freedoms without any intervention of the Parliament.

38. The Constitutional Council recalled that the Constitution does not forbid a legislator to declare a state of health emergency. Moreover, it stated that only Parliament could assess the necessity to extend it in regards of the epidemic situation. Moreover, based on the opinions of the scientific committee, the Constitutional Council highlighted that at the moment of the decision, the situation was degrading and becoming more dangerous with the coming winter that justified the four-month extension. Also, the Constitutional Council pinpointed Art. L. 3131-15 of the PHC and specified that measures enacted in the execution of the state of health emergency can only intervene in the protection of public health if they are strictly proportionated to the risk incurred. Eventually, the Constitutional Council added that the state of health emergency could be terminated by a decree if the sanitary situation allowed it. For all these reasons, the argument regarding the illegality of the extension of the state of health emergency was rejected.

39. Secondly, the Statute No. 2020-1379 also granted extensive powers to the Government after the end of the state of health emergency until April 1, 2021. Deputies argued that by organizing this transitional regime automatically, without any intervention of the Parliament, the Statute was disproportionate in regards of restrictions imposed on rights and freedoms. For the senators, this disposition amounted to a violation of the division of powers and the legislator’s jurisdiction.

40. The Constitutional Council pointed out that, when fixing this transitional regime, the legislator assumed that there was a high risk of the epidemic’s spread after the end of the state of health emergency. Moreover, the state of scientific knowledge did not indicate that such an assessment was improper. Also, according to the Statute No. 2020-856 adopted on July 9, 2020, measures enacted during the transitional regime could only aim to protect public health and fight the spread of the epidemic. They should be proportionate to the risk incurred and be terminated when the grounds for their application cease to exist. Furthermore, the judge was in charge to control the observance of these requirements. In consequence,

\textsuperscript{596} Decree No. 2020-1131 regarding the recognition of occupational diseases for pathologies linked to COVID-19 (September 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042328917/ (the date of access: March 31, 2021).

\textsuperscript{597} Statute No. 2020-1379 authorizing the extension of the state of health emergency and providing diverse measures to manage the health crisis (November 14, 2020). URL: https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000042520662 (the date of access: March 31, 2021).
the Constitutional Council decided that granting the powers to the Government after the end of the state of health emergency was in accordance with the Constitution.

41. Thirdly, the Statute extended the share and analysis of data regarding the epidemic until April 1, 2021. It also gave access to this data to some health workers and the institutions in charge of social protection. Deputies argued that these facts constituted a violation of privacy rights.

42. Referring to its Decision No. 2020-800 DC, the Constitutional Council reminded that the legislator instituted the information system to identify the infection chains and therefore battle against the epidemic. The data could only be used for this purpose. Moreover, the Council indicated that by giving access to the data to health workers in charge of virus testing, the Statute targeted workers participating in the identification of infection chains, and they only had access to the data needed for the testing. Also, the access to the data by the institutions in charge of the social protection was conditioned by an agreement of the people who had been tested. Therefore, the Constitutional Council found no infringement of privacy rights on this point.

43. Fourthly, the Statute provided for a delegation of power to the Government so that it could intervene in the purview of statutes by ordinances to rectify the consequences of the health crisis [para. 30 of Annex 3 to the Analytical Report]. Deputies and senators criticized this delegation of power because its introduction was supported by reference to the former cases of the delegation of power issued during the first wave of COVID-19. According to them, the delegation was too vague because of this reference.

44. The Constitutional Council noted that the Statute only permitted the extension or restoration of previous measures adopted by ordinances that were enacted on the ground of the former delegation of power. But the statute did not extend or restored this previous delegation of powers. For the Constitutional Council, the content of the delegation of power was clear enough and was limited to what was necessary for an adequate response to the epidemic in regards of the state of health emergency. As such, there was no constitutional violation.

3.2. Administrative Courts

Preliminary Remarks

45. Only administrative tribunals and courts have jurisdiction to review administrative decisions and regulations adopted in the execution of the regulatory power vested in the Government [para. 47 of Annex 3 to the Analytical Report]. The Administrative Supreme Court is the Council of State (Conseil d’État) which has the role to advise the Government. Its members are thus strictly divided between the ones who judge and the ones who advise. Since most measures adopted to fight the pandemic were administrative decisions, the Council of State is the most important actor to control the French response to the COVID-19 crisis.

46. Moreover, it should be noted that most legal claims were introduced through fast-track proceedings (référendé-liberté), which can be used whenever individual liberties are “seriously and illegally” violated. In such a case, a judge should take temporary measures within 48 hours. To succeed, the claimant must prove the emergency of her or his case, the obvious illegality of the contested measure, and the threat it presents to her or his liberty. Hence, the standard of proof is higher in that kind of proceedings.


than in regular ones. The drawback of the latter is their long period of waiting before a trial starts that explains the extensive use of fast-track proceedings during the COVID-19 crisis. This type of the adopted decision is called “ordinance”. It should not be confused with ordinances the Government adopts in virtue of a delegation of power from the Parliament.

Civil Liberties

47. The second lockdown, which was declared by the Decree No. 2020-1310, was challenged on the ground of violation of individual liberties, but the Council of State considered that it was a justified violation of individual liberties in regards of the protection of public health.600

48. Unlike the lockdowns, the curfew decreed in December 2020 did not provide a possibility of derogation for a daily hour of exercise or walking in a radius of one kilometer. This was contested before administrative courts because it deprived workers from daily exercise once their work is done. The Council of State decided that in regards of the spread of the pandemic there was no obvious and serious violation of the freedom of movement.601

49. The restriction imposed on the right to assembly in public space, circumventing the use of the right to protest, was also challenged before the Council of State, in particular, the Decree No. 2020-663,602 which prohibited any gathering of more than 10 people and the organization of protests. The Council of State decided that its provisions were too general and too absolute in regards of the sanitary situation and alternative possibilities to organize safe demonstrations.603 Thus, the measures were suspended and the right to protest was restored.

50. Alternatively, closures of businesses, in particular bars, restaurants, clubs, gyms, museums, concert halls, and movie theaters restricted several liberties, in particular the freedom of expression, economic liberties, and artistic freedom. The Council of State recognized that these closures constituted a serious violation of these rights and liberties, but it judged that they were proportionate to the purpose of the protection of public health with a view to the spread of the pandemic in France604. In the same logic, imposed distance learning in universities was considered as a measure proportionate to the restriction of the freedoms of expression and assembly in regards of the protection of public health.605

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**Freedom of Religion**

51. The decisions mentioned above seem to indicate that the annulment of a measure by the Council of State is quite unlikely because the proportionality test it conducts is very lenient (only of the restriction imposed on the right to protest were annulled). However, comparing decisions regarding restrictions imposed on the freedom of religion during the first and the second waves of COVID-19 is particularly interesting because it reveals that the Council of State adapts its position to the actual situation and the spread of the pandemic.

52. During the first lockdown, the Government decreed the suspension of religious services for more than 20 people. After the introduction of the second lockdown it was extended, otherwise, such religious places could open again and provide services gathering people. The judge of the Council of State considered that the suspension of religious services was not proportionate to the purpose of the protection of public health during the phase of lockdown easing and in comparison with measures taken in other similar situations [such as ones in bars or restaurants]. However, during the second lockdown, religious services were forbidden with the exception of burials within a limit of 30 people. In this situation, the Council of State validated the measure because the pandemic was much stronger compared to May 2020. This decision underlines that the proportionality test the Council of State conducts is directly linked to the rate of the pandemic’s spread.

**Privacy Rights**

53. Privacy rights were at the center of the French response to the COVID-19 pandemic because information systems collecting personal data were used. The question of whether the Prefect in Paris could use drones to police the city and enforce the lockdown arose (para. 41 of Annex 3 to the Analytical Report). The Council of State annulled this measure because the Prefect lacked the power to order it. This case led the Prime Minister to consult the Council of State — not as a judge but as the advisor of the Government — on the use of drones for surveillance purposes. The Council of State issued the Advice on November 13, 2020, stating that only the legislator could decide if the use of drones could be a proportionate measure with respect to privacy rights and public order.

54. Nevertheless, the police kept using drones for surveillance in Paris which led the association “La quadrature du net” to bring another claim to administrative courts. On December 22, 2020, the Council of State decided that even if drones only sent blurred images to the command center, the rest of the data still permitted the identification of people on them, thus constituting personal data subject to the General Data

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Protection Regulation and French legislation related to it. Moreover, the Council of State underlined that no statute or a ministerial decree after a public opinion of the National Commission for Data Processing and Liberties intervened to allow the use of drones as in the first decision of May 2020. In consequence, the Council of State perceived a serious doubt regarding the legality of the use of drones and suspended it. A bill is currently pending before the Parliament to address this question.

55. Another major concern for privacy rights was the creation of information systems (para. 47 of Annex 3 to the Analytical Report). Their purposes were to collect personal data, process it, and exchange it if needed without the consent of individuals in order to fight the pandemic more efficiently. This data was strictly limited to virological or serological statuses and could not be conserved for more than three months after its collection. The main goal was to scrutinize the pandemic, identify potential virus strains, and contact individuals exposed to the virus to ask them to observe strict isolation (including by contact tracing). Concomitantly, a tracking app "TousAntiCovid" was launched. For the first time, those information systems were used for medical purposes in France. It was also the first time when such a wide derogation from medical secrecy was implemented. Nevertheless, both the Council of State and the Constitutional Council decided that the use of such information systems was justified by the goal to combat the pandemic efficiently.

56. The medical data was stored on a platform "Health Data Hub", which was created in 2019. The data could be crossed-referenced by Health Data Hub or the National Social Security to provide more information about the virus. However, Microsoft hosted the platform which raised awareness about a possible leak of the data to the United States by application of Article 702 of the "Foreign Intelligence Surveillance Act" and of the "Clarifying Lawful Overseas Use of Data Act". Hence, it led to a claim before the Council of State. But the Council of State insisted on the state of emergency to collect and treat this data and the absence of technological alternatives. Furthermore, it highlighted that the contract concluded with Microsoft complied with the French legal requirements concerning data hosting and that there should

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613 See the bill No. 3452. URL: https://www.assemblee-nationale.fr/dyn/15/textes/l15b3452_proposition-loi (the date of access: March 31, 2021).


be no concern about the transfer of data to the US because of the privacy shield. However, one month later, the CJEU declared the privacy shield invalid, questioning the French case law. A new claim was brought to the Council of State. It stated that the CJEU did not prohibit American companies to process data on the EU territory. Moreover, an amendment to the contract with Microsoft signed on September 3, 2020, stipulated that the company could not process data outside the geographic area specified by the platform. Declaring the emergent need of such information systems again and the absence of satisfying alternatives, the Council of State validated the contract with Microsoft.

57. This storage contract with Microsoft still raises a lot of objections. The National Social Security even stated on February 19, 2021, that taking into account the specificity of the data only a new platform operated by a sovereign mechanism and entirely submitted to the General Data Protection Regulation could perform the mission attributed to Health Data Hub. Nevertheless, in the meantime, the National Social Security adjudicated on letting some data to Health Data Hub in the strict necessity of research and prevention of COVID-19.

Elderly People and the Right to Life

58. Some associations questioned the potential triage practice upon age impeding elderly to access hospitals when infected with COVID-19. They argued that such practice would have been based on the lower survival rate of these patients. Associations brought a claim to administrative courts invoking that people living in elderly homes were not taken in charge in hospitals that constituted a state failure. But the Council of State decided that the associations did not provide proof of their allegations. Moreover, the Council of State pointed out that elderly people had access to palliative care outside hospitals and could have a derogatory right to be visited before dying when placed in care facilities. In another case of April 2020, claimants asked the judge to order the Prime Minister to organize systematic testing in elderly facilities and make the use of personal protection equipment mandatory. Noting a shortage for both tests and equipment, the Council of State rejected the claim.

URLs:


59. Also, in its Ordinance of March 3, 2021, the Council of State quashed a ministerial recommendation inciting elderly homes to forbid their residents to go outside. Families brought a claim to the judge invoking an excessive violation of the freedom of movement. The Council of State decided that in regards of the vaccination rate in elderly homes, the measure was not proportionate. Recognizing the emergency of the situation, the Council of State decided to suspend the contested recommendation.

**Vaccines and the Right to Life**

60. The first judicial decision related to a demand to receive a vaccine in priority was decided on January 7, 2021 by the Administrative Tribunal of Châlons-en-Champagne. The claimant was heavily disabled and wanted to be vaccinated whereas only people identified as "vulnerable" (mostly elderly people or people with serious diseases) could then have access to the vaccine. The Administrative Tribunal found that the claimant (a male person) did not demonstrate an obvious and serious violation of his fundamental liberties or that he was vulnerable. Moreover, the judge added that the claimant lived at home, did not work, and did not receive daily assistance from other people than his spouse who did not particularly expose him to the virus. Therefore, the condition of emergency for providing a vaccine was also rejected by the tribunal.

61. In another litigation on February 5, 2021, an association defending prisoners' interests challenged the ministerial Order organizing the vaccination campaign and argued that the phase I should target prisoners because their conditions of detention present greater risks of transmission of the virus. The right to life and the principle of equality were invoked as legal grounds. The Council of State did recognize that the rights to life and the principle of equality were fundamental liberties, and that the administration of a prison is responsible for not putting prisoners' health in danger. However, regarding the principle of equality, the Council of State recalled that phase I targeted people over 75 or who have serious comorbidities that did not exclude prisoners belonging to such groups of people. Therefore, it concluded that there was no breach of equality between prisoners and the rest of the population. Regarding the right to life, the Council of State referred to the High Health Authority which recommended to follow the five phases planned in the vaccination campaign. Furthermore, after a year of the COVID-19 pandemic, the Council of State relied on official figures to state that there was no particular threat to prisoners since only two of them had died since February 2020. With social distancing, prisoners were not at greater risk. In consequence, the Council of State rejected the claim.

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II. Germany

Summary

62. During the period in question, the federal government and the governments of Germany’s federated states continued to develop legislation relating to various subject matters and aimed at combatting COVID-19 and overcoming its negative consequences. In addition, significant rule-making activity was carried out by the executive authorities, in particular by the German Health Ministry.

63. New measures aimed at combatting the pandemic and adopted at the federal level, included strengthening control over the spread of the infection, in particular, over the arrival of infected persons from abroad, modernizing infrastructure to adapt it to the realities of the pandemic and related restrictions, and improving sanitary measures, in particular testing and vaccination.

64. Restrictions on organizations and the population during the said period were based on the epidemiological situation and tightened or relaxed from time to time depending on the rate of the COVID-19 spread and risks to the public healthcare system. Broad restrictions were introduced during the fall 2020 – winter 2021 due to a sharp increase in the number of cases. They largely coincided with those introduced during the first wave of the pandemic. At the same time, some restrictions and requirements imposed on organizations appeared later as a result of the adoption of new regulations, in particular, in the field of employment.

65. In terms of support measures, a diversified system of financial support for enterprises and the population was created in Germany, providing for different types of help for various groups of enterprises or citizens.

66. Court practice on various issues of law relating to the pandemic comprises a significant number of court decisions, including rulings of Germany’s highest courts. Occasionally, the courts reviewed the legality of restrictive measures imposed by the state. Although in most cases the courts upheld the said measures, in some rulings, including those of the Constitutional Court, they were declared unlawful (unconstitutional).

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

Federal Legislation

67. Since the beginning of the COVID-19 pandemic, the Bundestag has already passed over 40 federal laws providing for special regulation due to the spread of and control over the coronavirus infection. About a third of all COVID-19 related laws have been passed by the Bundestag since September 2020. It is still actively involved in the law-making process, despite the fact that more than a year has passed since the beginning of the pandemic.

68. Among the most important federal laws, along with the FIPA, analyzed earlier [paras. 69–72 of Annex 3 to the Analytical Report], several recently enacted laws should be mentioned.
On October 23, 2020, the Hospital Development Program Act was passed by the Bundestag. It sets forth amendments to various federal laws relating primarily to healthcare financing in order to ensure that hospitals have sufficient financial resources to carry out a broad modernization campaign. The COVID-19 pandemic was the impetus for the development of this law by the federal government.

On November 18, 2020, the Bundestag passed the Third Law on Protection of the Population in Case of an Epidemic of the National Scale. It provides for amendments to various federal laws relating to healthcare, including the FIPA. According to the provisions of this law, the introduction by the federal government or the Health Ministry of special restrictive measures aimed at combatting the epidemic is only possible, if the Bundestag establishes an epidemic of the national scale, as it is determined by the FIPA on the basis of the following criteria:

- the WHO declares a PHEIC, and there is a risk of importing a dangerous infectious disease to Germany; or
- there is a risk of importing a dangerous infectious disease to several federated lands in Germany or such importing has already taken place.

Previously such criteria were not clearly defined (paras. 71–72 of Annex 3 to the Analytical Report).

This law provides for inclusion in the FIPA of a special provision (paragraph 28a), which stipulates various population protection measures that may be taken by government agencies in connection with the COVID-19 pandemic. It also stipulates that more stringent measures, for example, lockdown, may only be introduced if softer measures are not sufficiently efficient. As a general rule, the said measures are introduced by state authorities of the federated lands, based on the epidemiological situation at the local level (i.e., counties, district cities, and administrative districts). However, in case of the spread of an epidemic throughout the entire federated state, the said decisions can be based on the epidemiological situation in this federal state.

This federal law also provides for other measures aimed at combatting the epidemic. For example, it stipulates mandatory electronic registration for persons who came to Germany from countries with a negative epidemiological situation.

The development of special legislation continues to this day at the federal level. On April 21, 2021, the Bundestag approved the draft Fourth Law on Protection of the Population in Case of an Epidemic of the National Scale, the key provision of which allows to take population protection measures in connection with the COVID-19 pandemic at the federal level without consent of the representatives of the federated states (at the moment, any restrictions upon the initiative of the government are coordinated with the
representatives of the federated states \cite{annex4}. Before entering into force, this draft law must be approved by the Bundesrat and the President.

\textit{Laws of the Federated Lands}\footnote{North Rhine-Westphalia and Bavaria were selected for analysis both in Appendix 3 and Appendix 4 to the Analytical Report.}

75. No significant amendments to the legislation of the federated states of North Rhine-Westphalia and Bavaria relating to countering the spread of COVID-19 were adopted from September 2020 to March 2021 \cite{annex3}.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

\textit{Transport}

76. Since the start of the COVID-19 pandemic, Germany has alternately seen both sinking and rising numbers of COVID-19 cases. The measures taken to combat the spread of coronavirus, including but not limited to transport, depended on the epidemiological situation at a particular moment and varied depending on the risks to the public healthcare system.

77. As of now, different rules apply to persons entering Germany, depending on which region they come from:

- persons arriving from countries with an average level of risk by any transport other than aircraft must have a test and receive a negative result within 48 hours after arrival;

- persons arriving from countries with a high level of risk, including countries where more dangerous mutations of the coronavirus are present, must have a test and receive a negative result before arrival and upon arrival;

- persons arriving by aircraft, regardless of the country of origin, must have a test and receive a negative result within 48 hours before arrival.\footnote{Diese Regeln gelten bei Einreise aus dem Ausland. URL: \url{https://www.bundesregierung.de/breg-de/aktuelles/corona-einreiseverordnung-1836284} (the date of access: April 18, 2021).}

\textit{Public Health}

78. Since the first response to the COVID-19 pandemic \cite{annex3}, a significant number of additional public health measures have been taken at the federal level. As noted above \cite{annex4}, the spread of COVID-19 has served as an incentive for the government to modernize and further improve the healthcare system to ensure its efficiency in countering the pandemic. In particular, in September 2020, Germany’s Health Minister announced the government’s plans to increase the number of medical workers in hospitals, as well as to make

\footnote{Bundesweite Notbremse beschlossen. URL: \url{https://www.bundesregierung.de/breg-de/aktuelles/bundesweite-notbremse-1888982} (the date of access: April 21, 2021).}
investments in the use of new digital technologies by public health authorities. This package of measures was agreed upon by the federation with the federated states.\footnote{Pakt für den öffentlichen Gesundheitsdienst. URL: https://www.bundesgesundheitsministerium.de/service/begriffe-von-a-z/o/oeffentlicher-gesundheitsdienst-pakt.html [the date of access: April 18, 2021].}

79. Furthermore, in November 2020, the government announced the launch of a program to create a national health reserve, i.e., infrastructure for storing medical equipment, materials, medicines, and so on in specially created warehouses, to which immediate access can be ensured in case of an emergency similar to the COVID-19 epidemic.\footnote{Bundesregierung baut Nationale Gesundheitsreserve auf. URL: https://www.bundesregierung.de/breg-de/themen/coronavirus/nationale-reserve-1821502 [the date of access: April 18, 2021].}

80. With the advent of vaccines, steps have been taken to ensure their most rational use. To this end, the Health Ministry has developed a regulation on vaccination,\footnote{Verordnung zum Anspruch auf Schutzimpfung gegen das Coronavirus SARS-CoV-2. URL: https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/3_Downloads/C/Coronavirus/Verordnungen/Corona-ImpfV_BAnz_AT_11.03.2021_V1.pdf [the date of access: April 18, 2021].} which determines the priority groups of the population, the vaccination of which is carried out on a priority basis, the procedure for using different types of vaccination to different groups of the population, the manner of conducting the vaccination campaign in various types of healthcare institutions, and so on.

81. The Health Ministry has also developed and periodically updates another regulation containing provisions on COVID-19 testing.\footnote{Verordnung zum Anspruch auf Testung in Bezug auf einen direkten Erregernachweis des Coronavirus SARS-CoV-2. URL: https://www.bundesgesundheitsministerium.de/fileadmin/Dateien/3_Downloads/C/Coronavirus/Verordnungen/Corona-TestV_BAnz_AT_09.03.2021_V1.pdf [the date of access: April 18, 2021].}

\textit{Education}

82. Along with the measures, introduced earlier (\textit{paras. 89–90 of Annex 3 to the Analytical Report}), it should be noted that to ensure the continuity of the education process during the pandemic and lockdown, the government announced its plans to invest significant funds in the development of digital technologies in the education. They include, in particular, providing teachers and students with devices through which distance learning will be possible. Measures to support higher distance education have also been taken by some federated states.\footnote{Digitalisierung der Schulen mit Hochdruck vorantreiben. URL: https://www.bundesregierung.de/breg-de/mediathek/kanzlerin-podcast/podcast-schulen-1789466 [the date of access: April 18, 2021].} For instance, in the federated state of North Rhine-Westphalia, the Law on Additional Measures to Overcome the Coronavirus Pandemic in Higher Education was adopted on December 7, 2020.\footnote{Gesetz hinsichtlich weiterer Maßnahmen zur Bewältigung der Corona-Pandemie im Hochschulbereich. URL: https://recht.nrw.de/lmi/owa/br_vbl_detail_text?anw_nr=6&vd_id=18940&ver=8&val=18940&sg=0&menu=1&vdbck=N [the date of access: April 18, 2021].}

This law provides for special rules regarding the education process and is aimed at combating the spread of COVID-19 (for example, organizing the education process online).
2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

83. Along with the introduced earlier restrictive measures (paras. 91–97 of Annex 3 to the Analytical Report), other measures, taken after the first reaction to the COVID-19 pandemic should be mentioned.

84. The Employment Safety Regulation governs a wide range of issues related to labor relations during the pandemic. For example, employers are generally obliged to provide their employees with the opportunity to work from home, while the employees are not obliged to use this opportunity. In the workplace, employers are obliged to ensure compliance with safety rules, in particular, the use of masks, social distancing, and so on. 639

85. Frequently, specific measures were taken based on the current situation and could be applied over different time periods. For instance, the most stringent measures, including the temporary closure of many types of enterprises (in catering, culture and art, entertainment, and so on) or limiting the number of visitors (for example, in the wholesale and retail trade), were agreed upon by the federation and the federated states in fall 2020 – winter 2021, during the period of the most intensive spread of the virus. 640 Due to the subsequent decline in the number of cases, the measures were relaxed in March 2021, with the scope of relaxation being determined by the federated lands. 641 With the onset of a new increase in the number of cases, referred to in some German media as the “third wave”, 642 stringent measures, in particular the restriction of functioning of certain types of enterprises, may be reintroduced on a temporary basis. It should be noted that the nature of the adopted restrictions has not changed significantly in comparison with the measures that were taken at the initial stages of the pandemic.

2.3. Containment Measures Regarding Population

86. Containment measures regarding the population were introduced on a temporary basis depending on the general epidemiological situation. The restrictions in case of a sharp increase in the number of cases have not changed significantly since the beginning of the pandemic: lockdown at a certain time, a ban on meetings and gatherings with the number of participants exceeding the highest permitted number, mandatory wearing of masks, and so on. These restrictions were agreed upon by the federation and the federated states in fall 2020 – winter 2021 in response to a sharp increase in the number of cases. 643


2.4. Support Measures for Industrial and Non-Productive Sectors

87. Along with the introduced earlier support measures [paras. 107–109 of Annex 3 to the Analytical Report], the following new support measures, created by the government to support various branches of the economy, should be mentioned:

- Neustart Kultur — a program of financial support for various cultural institutions, in particular, museums, circuses, cinemas, libraries, theaters, and so on. The program includes various projects: modernization of equipment and premises, awarding scholarships to artists, assisting in conducting cultural programs, and so on; 644

- Neustarthilfe — a program of financial support for self-employed individuals and small businesses affected by the pandemic, created by the Ministry of Economy and Energy. Assistance is provided through direct cash payments; 645

- Überbrückungshilfe — a program of financial support for all types of enterprises, self-employed individuals, and representatives of the liberal professions. Assistance is provided through direct cash payments; 646

- November- und Dezemberhilfe — a program of financial support of enterprises and self-employed individuals that were affected by stringent restrictions introduced in November – December 2020. 647

88. Another support measure that should be mentioned is the Third Law on Tax Aid during the Coronavirus, adopted on March 10, 2021, 648 which provides for both general tax allowances (deferral of tax on personal and corporate income) for all persons and tax breaks (VAT reduction) for some branches of the economy, for example, for enterprises providing catering services. Furthermore, mention should be made of the Employment Protection Act, adopted by the Bundestag on December 3, 2020, which provides for the reimbursement of certain types of mandatory payments to employers if they comply with certain conditions, in particular, if they participate in training programs for their employees. 649

89. In addition to the above-mentioned measures of financial support through the provision of subsidies, one should also mention measures of indirect support of enterprises provided for by the federal government. They include, for example, the creation of the Economic Stabilization Fund to provide

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644 Rettungsprogramm wird ausgebaut. URL: https://www.bundesregierung.de/breg-de/bundesregierung/staatsministerin-fuer-kultur-und-mediencorona-hilfen (the date of access: April 18, 2021).
645 Neustarthilfe. URL: https://www.ueberbrueckungshilfe-unternehmen.de/UBH/Redaktion/DE/Artikel/neustarthilfe.html (the date of access: April 18, 2021).
646 Überbrückungshilfe III. URL: https://www.ueberbrueckungshilfe-unternehmen.de/UBH/Redaktion/DE/Artikel/ueberbrueckungshilfe-iii.html (the date of access: April 18, 2021).
648 Drittes Gesetz zur Umsetzung steuerlicher Hilfsmaßnahmen zur Bewältigung der Corona-Krise. URL: https://www.bgbl.de/xaver/bgbl/start.xav (the date of access: April 18, 2021).
suretyship and guarantees for bank loans to enterprises, as well as the provision of loans by a state-owned bank Kreditanstalt für Wiederaufbau.

90. The support measures also include federal laws extending the moratorium on filing bankruptcy petitions, as well as on some other actions, in particular, filing of tax returns during the COVID-19 pandemic. The latest law to this effect was passed by the Bundestag on February 15, 2021.

2.5. Support Measures for Population

91. Along with the support measures, adopted earlier (paras. 112–113 of Annex 3 to the Analytical Report), the following types of support measures, set forth by the government, should be mentioned:

- Kinderkrankengeld — social allowance for parents who have to spend daytime with their children at home due to the pandemic related restrictions (closure of schools, kindergartens, and so on).
- Überbrückungshilfe für Studierende — financial support program for students during the pandemic.

92. Further laws that merit attention are the Third Coronavirus Tax Aid Act that again provides for a “Bonus for children” of EUR 150 and the Employment Protection Act that stipulates various measures aimed at supporting employees during forced part-time employment or loss of job due to the COVID-19 pandemic, in particular, provision of financial subsidies.

3. Court Practice With Respect to the COVID-19 Pandemic

93. In 2020, German courts considered about 10,000 cases related to the COVID-19 pandemic and the measures taken in connection with it. Some of these decisions concerned citizens’ challenging the restrictions imposed on them by state authorities to combat the epidemic. In 9 out of 10 cases, the courts
upheld the position of the state authorities. The overwhelming majority of these decisions were issued by the courts of the federated states and related, inter alia, to the restrictions indicated below.

**Rulings of the Courts of Federated States**

**Restrictions Relating to the Functioning of Businesses**

94. While most courts upheld the legality of the taken measures and resolved predominantly controversial issues of their application, in some cases the applicants were able to prove the illegality of the adopted regulations. For instance, on April 30, 2020, the Administrative Court of the federated state of Baden-Württemberg held that a restriction on the area of commercial spaces that can be used by certain types of retail stores was contrary to the principle of equality since this restriction did not apply to other retail businesses. In another case, the same court declared illegal the imposition of the obligation to check all employees for infection twice a week on all slaughterhouses in the region. The court pointed out that this measure was excessive whereas it did not give enterprises the opportunity to apply for its limited application due to special circumstances, for example, the adoption of special protective measures at the enterprise.

**School Attendance Restrictions**

95. Court practice on these issues mainly covers disputes regarding the details of application of the said restrictions. However, in some cases, the applicants tried to challenge the legality of these measures. For example, on March 9, 2021, the Administrative Court of the federated state of North Rhine-Westphalia dismissed an application for suspension of the regulation adopted by the Landtag of this federated state and setting forth the said restrictions, in particular, wearing of masks. The court held that in light of the epidemiological situation at that time, the contested measures were adequate.

**Restrictions Relating to Meetings, Gatherings, and Public Events**

96. Since the start of the COVID-19 pandemic, extensive court practice has appeared regarding regulations that impose restrictions relating to meetings, gatherings, and public events. In some cases, applicants successfully challenged the legality of the restrictions. For example, on September 1, 2020, the Administrative Court of the federated state of Bavaria declared disproportionate the rules adopted by the Landtag (parliament) of this federated state that provided for a general ban on alcohol consumption at night and cooking in open spaces. The Court noted that, although such measures might contribute to curbing

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660 VG Köln, Beschluss vom 31.08.2020 - 7 L 1540/20. URL: https://openjur.de/u/2300701.html (the date of access: April 21, 2021); VG Düsseldorf, Beschluss vom 16.10.2020 - 7 L 2038/20. URL: https://openjur.de/u/2304253.html (the date of access: April 21, 2021).
661 OVG Nordrhein-Westfalen, Beschluss vom 09.03.2021 - 13 B 267/21.NE. URL: https://openjur.de/u/2331300.html (the date of access: April 21, 2021).
the spread of the infection, they were excessive in the adopted wording, in particular since their scope was not limited to areas with the most severe epidemiological situation.

**Rulings of Highest Courts**

97. Several decisions regarding the restrictions, imposed due to the spread of COVID-19, have been rendered by the Federal Supreme Court and the Constitutional Court.

**BGH, Beschl. v. 17.11.2020 – 4 StR 390/20**

98. The Federal Supreme Court ruled that lockdown, introduced due to the COVID-19 pandemic, cannot be interpreted as restricting a person’s right to attend a public court hearing. A person’s desire to do so must be recognized as a valid reason, which, according to the applicable legislation, allows to leave his or her house during such lockdown. That said, the court did not consider the question as to whether a prohibition to do so would be permissible in case of a person’s confirmed infection or contact with an infected person.

**BGH, Beschl. v. 06.01.2021 – 5 StR 363/20**

99. The Federal Supreme Court reaffirmed its position in the previous case and indicated that the imposition of lockdown does not mean that a person is prohibited from being present at trial.

**BVerfG, Beschl. v. 10.04.2020 – 1 BvQ 28/20, NJW 2020, 1427**

100. The Constitutional Court held that while the ban on attending religious services, introduced in spring 2020, was an extremely serious abridgment on fundamental human rights by the state, it did not contradict the Basic Law, since it was enacted during a period of the rapid spread of the infection to protect public health.

**BVerfG, Beschl. v. 15.04.2020 – 1 BvR 828/20, NJW 2020, 1426**

101. The Constitutional Court considered the prohibition of gatherings of more than two persons, introduced by the city of Giessen, excessive and therefore contrary to the Basic Law.

102. Thus, the COVID-19 relating court practice is beginning to take shape, including in the highest courts and in cases when regulations issued by executive agencies are contested. Although in most cases the courts confirm the legality of the restrictions adopted by the state, in some cases they can be declared

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663 Bundesgerichtshof Beschluss 4 StR 390/20 vom 17. November 2020 in der Strafsache gegen wegen schweren Raubes u.a. URL: http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=en&nr=113667&pos=0&anz=1 [the date of access: April 21, 2021].


illegal if they violate the principles of equality and proportionality of the restrictions imposed to the public interests concerned.
III. Italy

Summary

103. Since September 2020, the COVID-19 pandemic has been challenging the Italian legal system again, affecting and limiting certain fundamental freedoms, owing to the extension of the state of emergency.

104. Overall, a multi-lateral model in which the Government plays the main role but its action is coordinated and implemented by other authorities involved at regional and local levels was reconfirmed (para. 115 of Annex 3 to the Analytical Report). Another element of continuity concerns the choice of legal tools (decree-laws, decrees of the President of the Council of Ministers, as well as orders at the regional and local level) (paras. 135–139 of Annex 3 to the Analytical Report). Like in the first phase of the pandemic, measures have been taken to contain the spread of COVID-19 and support the most affected economic sectors (para. 117 of Annex 3 to the Analytical Report).

105. The classification of Italy into different areas according to the risk level was introduced. This implies the application of different measures depending on the risk of the spread of COVID-19 in each region. This strategy has been carried out with the purpose to obtain trust and citizens’ acceptance of restrictive measures by avoiding total lockdown throughout the national territory. The latter has been envisaged only for Christmas time and generally for areas classified as “red” (high-risk level). However, this kind of lockdown has been lighter than in the first pandemic phase (for instance, not affecting the industrial sector, not closing all school grades, not compromising freedom of worship and public demonstrating) (paras. 140–154 of Annex 3 to the Analytical Report).

106. As during the first COVID-19 wave (para. 122 of Annex 3 to the Analytical Report), the new measures have also mainly affected individual freedoms in the name of protecting the collective interest for health, enshrined in Article 32 of the Constitution, and pursuant to the principle of social solidarity under Article 2 of the Constitution. 667

107. Court practice faced some challenges that involved the conflict of competence between the State and the regions in the management of the pandemic, as well as the balance of the collective right to health with other relevant rights (e.g., the right to education, economic rights).

108. Overall, what has guided a decision-maker in the application of the measures and a judge in the adoption of the decisions, is the principle that measures restricting individual freedoms may be taken in the name of the collective interest in health, but grounded on the scientific evidence of the imminent risk.

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

New COVID-19 Legislation

109. In September 2020, Italy faced the second wave of the COVID-19 health crisis and was forced to take a set of measures to contain the spread of the virus and support the national economy.

110. New legal acts have been specifically designed to deal with the second wave and were adopted in accordance with the pre-COVID-19 emergency legislation, including the Italian Constitution, the Health Regulation No. 106/1982, the Civil Protection Code, and the National Plan for Preparedness and Response to an Influenza Pandemic [paras. 118–119, 123–130 of Annex 3 to the Analytical Report].

111. The state of emergency was extended until January 31, 2021, by the decision of the Council of Ministers of October 7, 2020. Subsequently, on January 13, 2021, the Council of Ministers once again extended the state of emergency until April 30, 2021.

112. As during the COVID-19 first wave, the Government rather than the Parliament has played a central role, taking into account the necessary circumstances underpinning the health crisis and the need to address it urgently [para. 134 of Annex 3 to the Analytical Report]. Indeed, the centralization of the Government’s powers addresses the need to provide a unitary response to the emergency quickly throughout the country. During an emergency, the Government’s legal tools are more suitable than the ordinary ones in terms of promptness in the adoption process.

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670 Piano nazionale di prevenzione e risposta ad una pandemia influenzale. URL: http://www.salute.gov.it/imgs/C_17_publicazioni_511 allegato.pdf [the date of access: March 30, 2021].

671 Decision of the Council of Ministers of October 7, 2020, extension of the state of emergency because of the Health risk associated with the onset of diseases deriving from transmissible viral agents, in Official Gazette, No. 248 of October 7, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/07/20A05663/sg [the date of access: March 30, 2021]. The extension of the state of emergency has been incorporated in the Decree-Law No. 125 of October 7, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/07/20G00144/sg [the date of access: March 30, 2021].

672 Decision of the Council of Ministers of January 13, 2021, extension of the state of emergency as a consequence of the Health risk associated with the onset of diseases deriving from transmissible viral agents, in Official Gazette, No. 15 of January 20, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/01/20/21A00227/sg [the date of access: March 30, 2021]. The extension of the state of emergency has been transposed in the Decree-Law No. 2 of January 14, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/01/14/21G00002/sg [the date of access: March 30, 2021].

113. Like the initial Italian legal response to the pandemic, the main legal tools chosen by the Government to tackle the health emergency are still the following: the Decree-Law pursuant to the Article 77 of the Italian Constitution (having the force of law) and the Decree of the President of the Council of Ministers \(\text{[paras. 133–139 of Annex 3 to the Analytical Report]}\).\(^{674}\)

114. Similarly, other legal instruments concern the orders issued at the ministerial level, particularly those adopted by the Ministry of Health \(\text{[para. 136 of Annex 3 to the Analytical Report]}\).\(^{675}\)

115. The governmental action is still coordinated with the support of the Civil Protection Department whose head has the power to issue orders \(\text{[para. 136 of Annex 3 to the Analytical Report]}\).\(^{676}\)

116. Even in the second phase, the Extraordinary Commissioner for the Emergency plays a strategic role, with the task to supervise every action aimed at addressing the COVID-19 health crisis.\(^{677}\)

117. What characterizes the second phase in comparison with the first one, is the elaboration of a vaccination plan, developed by an intersectional group at the Ministry of Health.\(^{678}\)

118. The vaccination plan identifies the categories that have priority in receiving the vaccine, the tasks of the authorities involved, the places of the distribution, and the procedures of vaccine vigilance, which are mainly carried out by the the Italian Medicines Agency.

119. It is up to the Extraordinary Commissioner to carry out the vaccination plan with the coordination of the Ministry of Health at the central level, as well as with the cooperation of the regions.

120. On March 13, 2021, the Extraordinary Commissioner drafted a plan to regulate the logistics, supply chain, and transportation of the vaccine, identifying the objectives to be achieved within a given timeframe.\(^{679}\)

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\(^{674}\) It is important to say that this is an act of secondary source (administrative nature), which provides a specific sunset clause. It is aimed at implementing and providing additional measures on the legal ground of the decree-laws issued in matters of COVID-19 health crisis. On the topic of the adoption of the Decree of the President of the Council of Ministers, see Trepa G. Il Covid-19, lo Stato di diritto, la pietas di Enea // Federalismi.it 2020. No. 1 P. 1–14.

\(^{675}\) On the legal ground of Article 32 of the Law No. 833 of December 23, 1978 on the National Health Service. URL: https://www.gazzettaufficiale.it/eli/id/1978/12/28/078U0833/sg (the date of access: March 30, 2021). On the ground of Article 2(2) of the Decree-Law No. 19 of March 25, 2020, the Ministry of Health is empowered to take measures and exercise a time-limited power of substitution in the absence of the Prime Minister in cases of necessity and urgency.

\(^{676}\) It is noteworthy that civil protections orders find their legal ground in the declaration of the state of emergency, pursuant to the Civil Protection Code (Legislative Decree No. 1 of January 2, 2018).

\(^{677}\) This position has been established by the Decree-Law No. 18 on March 17, 2020. Article 122. The Extraordinary Commissioner was nominated by the Decree of the President of the Council of Ministers of March 18, 2020.


With regard to vaccination, the Decree-Law No. 44 of April 1, 2021, is worth mentioning, whereas it provides for the compulsory vaccination for healthcare workers, as well as excludes their criminal liability in the event of injuries resulting from vaccine administration.

As for relations between central State and regions, it is possible to notice again a centralized system with a multi-lateral approach in which the Government plays the main role, coupled with regional and local authorities who are empowered to implement the state measures (para. 131 of Annex 3 to the Analytical Report). However, regional and local authorities have more room since there is greater attention to the specific pandemic risk of the region concerned.

It is noteworthy to mention that Presidents of the regions may adopt more restrictive measures in case of a pandemic worsening on their territory, on condition to be compatible with the national measures provided by the Government, in accordance with the principle of proportionality and appropriateness.

However, Presidents of the regions, without the approval of the Ministry of Health, can no longer adopt measures more extensive than those envisaged by the Government.

As far as the role of the local authorities in the second phase, the Decree of the President of the Council of Ministers of October 18, 2020, empowered Mayors to close the public streets or squares in urban centers from 21:00 in case of possible situations of gathering, without prejudice to the possibility of access to the concerned open commercial activities and private homes.

The power of Mayors to take restrictive measures in the event of worsening of the pandemic situation in their territory is reconfirmed (para. 130 of Annex 3 to the Analytical Report), as long as the orders comply with national measures.

Actually, the management of the second wave differs from the first phase in terms of a more targeted strategy, with the aim to avoid a national lockdown by differentiating the restrictive measures, in accordance with the pandemic risks for each region.

In other words, the restrictiveness of the measures is gradual and proportional to the risk of the pandemic on the territory concerned.

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681 The Decree-Law No. 19 of March 25, 2020, Article 3. URL: https://www.gazzettaufficiale.it/eli/id/2020/03/25/20G00035/sg (the date of access: March 30, 2021). See also the Decree-Law No. 33 of May 16, 2020, Article 1 (16). URL: https://www.gazzettaufficiale.it/eli/id/2020/05/16/20G00051/sg (the date of access: March 30, 2021).

682 See Article 1 (2) of the Decree-Law No. 125 of October 7, 2020, that amends the relevant provisions of the Decree-Law No. 33 of May 16, 2020, which provides for the possibility to adopt more extensive measures without the consent of the Ministry of Health. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/07/20G00144/sg (the date of access: March 30, 2021).


129. Indeed, the Decree of the President of the Council of Ministers of November 3, 2020 defined different rules for different areas, establishing a division of the Italian territory in three zones (yellow, orange, and red), corresponding to an increasing risk.  

130. On the ground of the Decree-Law No. 149 of November 9, 2020, it is up to the Minister of Health to decide by order the level of risk for each region, after consulting Presidents of the regions concerned and the Scientific Technical Committee.

131. The role of the Scientific Technical Committee (para. 136 of Annex 3 to the Analytical Report) is reconfirmed, with the task to advise and support the coordination activities to overcome the COVID-19 emergency.

132. With the Decree of April 30, 2020, the Ministry of Health identified the criteria according to which monitoring the evolution of the pandemic, including the capacity for each region of the health care system, the virus transmissibility index, and the number of people affected by COVID-19.

133. A region can move from a high-risk area to a low-risk area if there are improving elements for two consequent reports.

134. Moreover, there is a series of common measures applied on the whole territory.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Containment Measures

135. Throughout the whole territory, like during the first wave of the COVID-19 pandemic (para. 151 of Annex 3 to the Analytical Report), the obligation of social distancing of at least one meter has been confirmed.

136. **Mask wearing obligation.** The Decree of the Council of Minister of October 13, 2020, required the wearing of respiratory protective devices (masks) not only in closed places accessible to the public but also...
more generally in indoor places other than private homes and in all outdoor areas. People were obliged to wear masks, except in cases of sports activities, or where isolation is ensured. The measure is still in force.692

137. Quarantine. Temporary isolation is still compulsory in cases of a positive COVID-19 test (para. 143 of Annex 3 to the Analytical Report), as well as of contact with a potentially infected person.693

138. Pursuant to the Decree of the Council of Minister of October 13, 2020, an obligation to stay at home if the temperature exceeds 37.5 is provided.694 The measure is still in force.695

139. Transport. Public transport can operate with the limit of 50% of the capacity of the vehicles.696 Overall, public transport measures are less restrictive than the ones applied in the first COVID-19 wave (paras. 142, 151 of Annex 3 to the Analytical Report).697

140. As during the first COVID-19 wave (para. 141 of Annex 3 to the Analytical Report), there are still restrictions for traveling to and from abroad. The degree of restrictions depends on the country of origin or destination. The Ministry of Health identifies, by ordinance, low and high-risk countries, grouping them into lists for which different measures are envisaged.

141. Passenger location form. The ordinance of March 9, 2021, introduces the compulsory filling out of Passenger Locator forms for all passengers arriving via COVID-tested flights. Passengers are required to provide a certification attesting to the negative result of the molecular test or antigenic test carried out by swab, no later than 48 hours prior to boarding.

692 See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).


695 See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).

696 See the Decree of the President of the Council of Ministers November 3, 2020. URL: https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto/originario?atto.dataPubblicazioneGazzetta=2020-11-04&atto.codiceRedazionale=20A06109 (the date of access: March 30, 2021). The measure has been confirmed by the following decrees of the President of the Council of Ministers. See, e.g., the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).


698 See the Ordinance of April 2, 2021, on further urgent measures regarding the containment and management of the COVID-19 epidemiological emergency. URL: https://www.trovanorme.salute.gov.it/norme/dettaglioAtto?id=79576 (the date of access: April 2, 2021).

699 The Ordinance of March 9, 2021, on further urgent measures for the testing of COVID-tested flights. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/10/21A01552/sg (the date of access: March 30, 2021).
142. *Curfew.* A curfew has been established from 22:00 to 5:00 (during curfew, journeys are allowed only for work, necessity, health reasons) with the Decree of the President of the Council of Ministers of November 3, 2020.\footnote{The Decree of the President of the Council of Ministers of November 3, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/11/04/20A06109/sg (the date of access: March 30, 2021).}

143. *Religious services.* As opposed to the first COVID-19 wave [para. 150 of Annex 3 to the Analytical Report], civil and religious ceremonies have not been suspended, on condition that there is a maximum limit of 30 participants, pursuant to the Decree of the Council of Ministers of October 13, 2020.\footnote{The Decree of the President of the Council of Ministers of October 13, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/13/20A05563/sg (the date of access: March 30, 2021).} The measure is still in force pursuant to the following decrees.\footnote{See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).}

144. Religious freedom is ensured, by allowing access to places of worship, on the condition that interpersonal distance and the use of masks are ensured, as well as the gathering of people is avoided.\footnote{The Decree of the President of the Council of Ministers of October 13, 2020. Article 1 (6). URL: http://1.flcgil.stgy.it/files/pdf/20201013/decreto-del-presidente-del-consiglio-dei-ministri-del-13-ottobre-2020-ulteriori-misure-urgenti-per-fronteggiare-l-emergenza-epidemiologica-da-covid-19.pdf (the date of access: March 30, 2021).}

145. *The freedom of assembly.* Within the COVID-19 second wave, the freedom to manifest publicly is ensured, as long as it takes place in static form with interpersonal distance.\footnote{Ibid. Article 1 (6) (i).}

146. *Events.* The Decree of the Council of Minister of October 18, 2020,\footnote{The Decree of the Council of Ministers of October 18, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/18/20A05727/sg (the date of access: March 30, 2021).} required the suspension of all conferences, congress activities, national and international fairs, as well as trade shows and public events, with the exception of those taking place remotely. The measure is still in force.\footnote{See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).}


### Specific Containment Measures (“Yellow”, “Orange”, “Red” Zones)

148. Some sectors have been affected by restrictive measures according to the risk region in which they are located, in the light of the Decree of the President of the Council of Ministers of November 3, 2020.\footnote{Ibid. The Decree of the President of the Council of Ministers of November 3, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/11/04/20A06109/sg (the date of access: March 30, 2021).} These sectors concern catering activities, retail commercial activities, personal services. Schools have also been subject to different restrictions depending on the risk area in which they are located. The same is for the freedom of movement of people.

\footnote{\textsuperscript{700} The Decree of the President of the Council of Ministers of November 3, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/11/04/20A06109/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{701} The Decree of the President of the Council of Ministers of October 13, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/13/20A05563/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{702} See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{703} See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{704} Ibid. Article 1 (6) (i).}
\footnote{\textsuperscript{705} The Decree of the Council of Ministers of October 18, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/18/20A05727/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{706} See the Decree of the President of the Council of Ministers of March 2, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/03/02/21A01331/sg (the date of access: March 30, 2021).}
\footnote{\textsuperscript{708} Ibid.}
“Yellow” zone measures. In the “yellow”, low-risk zones, the following restrictions apply in addition to the general containment measures described above:

- bars, pubs, and restaurants have been allowed to be open from 5:00 to 18:00, with the obligation to have no more than four customers; take away services are allowed until 22:00; delivery food services are allowed with no time limit;
- as far as education, all high schools and universities must adopt distance-learning solutions.

“Orange” zone measures. In the “orange” regions, in addition to the rules already valid for the “yellow” zones, the following restrictions apply:

- bars, pubs, and restaurants have shut down, with the exception of home delivery, as well as take-away allowed until 22:00;
- more containment measures regarding population have been applied since any movement in and out of the region is prohibited, except for proven situations of needs or reasons of health or proven work needs. Moreover, any movement to a municipality other than that of residence or domicile is prohibited, except for proven needs.

“Red” zone measures. A lockdown measure affects the “red” regions, although with some moderations comparing to the first COVID-19 second wave (para. 150 of Annex 3 to the Analytical Report):

- in addition to the rules valid in the “yellow” zone, every movement within the municipality itself is prohibited, with the exception for proven work needs, general situations of needs, or reasons of health;
- restrictive measures regard also the suspension of retail commercial activities, with the exception of the food and necessities activities. Unlike the lockdown during the first COVID-19 wave, bookstores are open;
- the suspension of personal services concerns only beauty centers and, unlike during the first wave, they do not include barbers and hairdressers;
- regarding education, school in presence is allowed only for kindergarten, primary school, and sixth grade.
Containment Measures Applied to the National Territory From December 21, 2020 to January 6, 2021

152. During the Christmas holidays, restrictive measures were applied uniformly throughout the national territory, by further reducing the movement of people, in order to contain the spread of the virus and not worsen the pandemic situation.\textsuperscript{709} The following restrictive measures were applied:

- throughout the national territory, any movement in and out of the region was prohibited except for situation of needs, proven work needs, or health needs, or return to residence/domicile;
- during holidays (December 24–27, 2020 and January 1–3, 5–6, 2021) all the regions became “red” zones with the application of all corresponding measures;
- for all other days, the Italian regions were considered “orange” zones.

153. Since January 07, 2021, the classification of Italy into different areas, according to risk levels has been confirmed, as well as the ban on traveling between regions.\textsuperscript{710} A “white” area has been added for regions that have a very low risk of contagion, with all activities open and curfew removed. This classification is still in force.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

In\textit{dustrial Sector}

154. Differently from the first COVID-19 wave [\textit{para. 147 of Annex 3 to the Analytical Report}], the industrial sector has not been affected by restrictions, continuing normally, with the sole condition of respecting safety protocols for the containment of the COVID-19.

155. \textit{Smart working}. Smart working is recommended for private companies; it is up to employers to regulate it. Instead, smart working is compulsory for each public administration at least with 50% of the public personnel who can work remotely.\textsuperscript{711}

\textit{Non-Productive Sector}

156. The restrictive measures have affected primarily the cultural sector and the sector of sports activities.

\textsuperscript{709} See the Decree-Law No. 158 of December 2, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/12/02/20G00184/sg [the date of access: March 30, 2021]; the Decree-Law No. 172 of December 18, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/12/18/20G00196/sg [the date of access: March 30, 2021].

\textsuperscript{710} See the Decree-Law No. 1 of January 5, 2021. URL: https://www.gazzettaufficiale.it/eli/id/2021/01/05/21G00001/sg [the date of access: March 30, 2021]; the Decree of the President of Council of January 14, 2021. URL: http://www.governo.it/sites/new.governo.it/files/Dpcm_14_gennaio_2021.pdf [the date of access: March 30, 2021].

\textsuperscript{711} The Decree of the President of the Council of Ministers of October 13, 2020, Article 3 [3]. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/13/20A05563/sg [the date of access: March 30, 2021]. This measure was implemented by the Ministerial Decree of October 19, 2020, of the Ministry of public administration. URL: https://www.gazzettaufficiale.it/atto/serie_generale/caricaDettaglioAtto?atto.dataPubblicazioneGazzetta=2020-10-28&atto.codiceRedazionale=20A05940&elenco30giorni=true [the date of access: March 30, 2021].
Indeed, by the Decree of the President of the Council of Ministers of October 24, 2020, cinemas, theaters and concert halls, gyms, swimming pools, spas and wellness, as well as bingo halls, casinos and amusement arcade on the whole national territory have been shut down.

Sports competitions of international and national relevance have not been suspended, with the condition of being carried out without an audience.

Museums and other places of culture (including libraries) have been shut down in the light of the Decree of the President of the Council of Ministers of November 3, 2020. The measure is still in force.

2.3. Support Measures for Industrial and Non-Productive Sectors and Population

Like in the first phase of the COVID-19 pandemic (paras. 155-158 of Annex 3 to the Analytical Report), the Italian Government has approved new measures to support the economy and social welfare in favor of families and workers most affected by the restrictions.

Four Decree-Laws (called "Decree Ristoro") followed one after another and were subsequently transposed and converted into Law No. 176 of December 18, 2020.

To sum up, the support measures have provided: funding for self-employed workers, as well as for workers in the sports sector and agricultural sector engaged in product supply activities; additional support funds for the entertainment sector and tourism sector; support measures for companies; indemnities and tax relief for workers most affected by the restrictions to contain the spread of COVID-19 virus. Moreover, company employers are prevented from firing their employees.

A family policy measure is provided for working parents living in a "red" zone where the majority of schools are closed: a "babysitter bonus" or, as an alternative, the possibility to take an extraordinary leave with the recognition of an indemnity equal to 50% of the monthly salary for employed parents.

As far as the COVID-19 tracing app "Immuni" (para. 160 of Annex 3 to the Analytical Report), the Decree of the President of the Council of Ministers of October 18, 2020, has provided the obligation for the local health unit to update the tracing app, uploading identification codes (in compliance with privacy rules) of patients tested positive for COVID-19, in order to facilitate the pandemic monitoring.

712 The Decree of the President of the Council of Ministers of October 24, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/10/25/20A05861/sg [the date of access: March 30, 2021].


715 The Law No. 176 of December 18, 2020. URL: https://www.gazzettaufficiale.it/eli/id/2020/12/24/20G00197/sg [the date of access: March 30, 2021].

716 This measure was extended until June 2021.
3. Court Practice With Respect to the COVID-19 Pandemic

165. Many court decisions concern the allocation of powers and competences between the State and the regions in the management of the COVID-19 pandemic.

166. It is noteworthy that the Constitutional Court has been called upon to rule on the constitutionality of the regional Law No. 11 adopted on December 9, 2020. This law allowed certain social and economic activities in the region Valle d’Aosta in derogation of the prohibitions laid down by the State legislation related to the COVID-19 pandemic. In this regard, it was challenged by the Government on the ground that it infringed a number of constitutional parameters, providing mainly for the exclusive competence of the State in matters of international prophylaxis, public safety, and security.

167. The Constitutional Court has ruled in favor of the Government since the COVID-19 pandemic fails entirely within the exclusive competence of the State, pursuant to Article 117 of the Italian Constitution by way of international prophylaxis and in accordance with the principle of subsidiarity. Allowing local measures that can be characterized by less rigor can have a negative impact on a national level, compromising the public interest for health and uniform national management of the pandemic.

168. Still, on the subject of the conflict between the State and the regions in the management of the pandemic, one challenge involved the positioning of regions in the respective risk zones. In some cases, the Presidents of the regions decided on their initiative on the level of risk of the regional territory, as in the Abruzzi region. According to the Ordinance No. 106 of December 7, 2020, the region of Abruzzi was moving to a lower risk zone (from “red” to “orange”) in violation of the ministerial provisions. The Ordinance of the President of the Abruzzi region has been challenged by the Government. The Administrative Court of the Abruzzi region has suspended the Ordinance on the ground of the current legislation, according to which it is up to the Ministry of Health to decide the level of risk of each region supported by the scientific data. According to the Court, regions can adopt measures that are more extensive only if there is an agreement of the Ministry of Health. Still, according to the Administrative Court of Abruzzi region, within a multi-central State, the Administrative Court must guarantee the different levels of government and the respect of their sphere of competence.

169. On the same subject, the region of Sardinia challenged the Ordinance of the Minister of Health of January 22, 2021, placing the regional territory in the “orange” zone (from low risk to medium risk). According to the claimant, there were insufficient grounds for the region to remain in the “orange” zone. The Regional Administrative Court of Sardinia, with the Decree No. 25 of February 2, 2021, rejected the appeal, stating that the Order was adopted on the basis of scientific data, automatic detectors, indicating, for example, the virus transmissibility index and the state of the health system, reiterating that technical information is unquestionable, except when manifestly illogical.

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719 Ibid. Para. 6.

Another interesting dispute concerned the challenge of the Order of the region of Lazio,\textsuperscript{721} which made flu vaccination compulsory on its territory for all persons aged 65 and over, as well as for social and health care personnel, in order to relieve pressure on the healthcare system and contain COVID-19. The Order was challenged by some associations in defense of citizens, claiming the lack of competence of the region, the unreasonableness, and illogicality of the measure, as well as the violation of the right of self-determination, pursuant to Article 32 of the Italian Constitution, which implies the possibility for each person to freely choose in respect of acts involving his or her body and expectations of health and life, including the refuse of health treatment, within the limits established by law. The Court upheld the appeal based on the COVID-19 law that recognizes the adoption of restrictive measures by the regions only in matters that are not within the competence of the State, not including the matter of compulsory vaccination.\textsuperscript{722} According to the Administrative Court of Lazio, it is up to the State to balance values that are equally protected by the Constitution, such as the right to self-determination and the right to health, which will result in an obligation or recommendation. The principles of health protection represent precisely the balancing of opposing fundamental values.\textsuperscript{723}

Other challenges were brought against containment measures concerning the closure of casinos and gambling halls provided by the Decree of the President of the Council of Ministers of January 14, 2021, replacing the Decree of the Council of Ministers of December 3, 2020. The measure was contested in the first and second instances mainly on the grounds of the lack of a specific assessment of the risk of increased contagion for the opening of these activities.

The Council of State, with the Decree No. 884 of February 22, 2021,\textsuperscript{724} rejected the application for suspension, stating that, despite the fact that the decree revealed the doubtfulness and incompleteness of the preliminary assessment, the precautionary principle of public health prevails. However, it called for the adoption of containment measures based on complete scientific risk assessments and data specific to each activity subject to restriction, since the mere reference to the precautionary principle itself and the "non-essential" nature of the activity is not sufficient.

As far as the containment measures applied to personal services, the suspension of beauty centers has been challenged by representatives of the personnel working there. They argued the illogicality of the measure, which suspends beauty centers while keeping hairdressers in the "red" zone open. According to them, there was no valid reason for the measure to justify this unequal treatment, given that in the first phase of the pandemic both activities were restricted. The Regional Administrative Court of Lazio, with the decision No. 1862 of February 16, 2021,\textsuperscript{725} ruled in favor of the appeal, stating that the measure lacks motivation since the discrimination between the activities of hairdressers and barbers and those of beauty


\textsuperscript{723} The Administrative Court of Lazio, in support of its decision, cited the jurisprudence of the Constitutional Court, according to which the issue of compulsory vaccination is one of the principles of health protection falling within the exclusive competence of the State in order to guarantee homogeneous measures throughout the national territory.


\textsuperscript{725} Administrative Court of Lazio. Confestetica v. Government. Decision of February 16, 2021. URL: http://www.dirittoegiustizia.it/allegati/16/0000090386/TAR_Lazio_seq_1_sentenza_n_1862_21_depositata_il_15_febbraio.html [the date of access: March 30, 2021].
centers is not supported by any preliminary investigation or scientific evidence. The Court quoted what the European Commission said about the measures based on the precautionary principle — they should be proportionate to the chosen level of protection, non-discriminatory in their application, consistent with similar measures already taken, based on an examination of the potential benefits and costs of action or lack of action.

174. Other case law involved decisions on the balance between the right to study and the protection of the right to health, both of which are of constitutional interest. In many cases, in order to contain the spread of the virus, the Presidents of the regions have adopted more restrictive measures than the national ones, providing distance learning solutions.

175. Overall, administrative jurisprudence had allowed the right to education to be curtailed by more restrictive regional measures only in cases where scientific evidence proved a direct cause-effect link between an upsurge in contagions and educational activities at hand.

176. Indeed, the Council of State, with the Decree No. 6453 of November 10, 2020, has rejected the appeal for suspension of the monocratic Decree of the Administrative Court of first instance which did not grant the claim for the suspension of the Order No. 89 of November 5, 2020, of the President of the Campania Region, in so far as it provides for the suspension of educational activities in the presence of children in nursery and primary schools. The regional measure was challenged by some parents who claimed the violation of their children’s right to study and their compromised right to work since they could not leave their children alone. The decision was taken on the ground that no decisive evidence was adduced in favor of the alleged unreasonableness of the measure, which was aimed at preventing the spread of the virus as strictly as possible within a territory with a high risk of infection. Therefore, in this case, the reading of the scientific data allowed for compression of the right to study of children attending nursery and primary school, as well as the right to work of their parents, who were unable to carry out their ordinary work activities, prevailing the collective interest of health.

177. In the same wake, the Council of State, with the Decree No. 18 of January 11, 2021, has confirmed what had been established by the Administrative Court of first instance, which had suspended the Ordinance of the Calabria region providing for distance learning for all schools in the corresponding territory. In this case, the lack of scientific data proving an increase in the number of COVID-19 cases due to the educational activities in presence did not justify the adoption of regional measures more restrictive than the national ones, which, moreover, place the concerned region in a low-risk zone.

726 See Articles 32 and 34 of the Italian Constitution.
729 The same guideline concerning the balance between the right to study and the right to health is shown in subsequent rulings on the matter; for instance, see Administrative Court of Lombardy region. Decree No. 32 of January 13, 2021. URL: https://www.giustizia-amministrativa.it/en/web/guest/dcsnpr (the date of access: March 30, 2021); Administrative Court of Emilia Romagna region. Decree No. 30 of January 15, 2021. URL: https://www.giustizia-amministrativa.it/en/web/guest/dcsnpr (the date of access: March 30, 2021); Administrative Court of Friuli Venezia Giulia region. Decree No. 7 of January 15, 2021. URL: https://www.giustizia-amministrativa.it/en/web/guest/dcsnpr (the date of access: March 30, 2021); Administrative Court of Campania region. Decree No. 142 of January 20, 2021. URL: https://www.giustizia-amministrativa.it/en/web/guest/dcsnpr (the date of access: March 30, 2021).
178. On the subject of fundamental human rights, it is worth noting the Court of Cassation’s Decision No. 27917 of October 7, 2020,\textsuperscript{730} sixth section, concerning the possible conflict between prisoner’s health conditions and the prison regime in view of the risk to get COVID-19. Here as well, scientific evidence prevails. The incompatibility between prisoner’s health conditions and the prison regime must be proven on the ground of specific elements revealing factors of real and concrete danger, also in the light of specific preventive measures adopted in the institution to ensure a safe distance between prisoners with a precarious health condition.

179. Finally, it is worth noting the position of the Italian Data Protection Authority on a sensitive issue that will certainly be the challenge of future legal debates: whether it is compulsory to inform the public about COVID-19 vaccination.\textsuperscript{731}

180. Concerning the work environment, the Italian Data Protection Authority has clarified that the employer may not obtain, even with the consent of the employee or through the competent doctor, the names of vaccinated staff or copies of vaccination certificates, pursuant to the current legal framework. The employee’s consent cannot be a condition for the lawfulness of data treatment in such cases. The Italian Data Protection Authority called for a legislative intervention on that matter, to achieve a fair balance between the public interest and the individual interest in confidentiality.\textsuperscript{732}


\textsuperscript{731} Garante per la protezione dei dati personali. Trattamento di dati relativi alla vaccinazione anti COVID-19 nel contesto lavorativo. URL: https://www.garanteprivacy.it/documents/10160/0/FAQ+-+Trattamento+di+dati+relativi+alla+vaccinazione+anti+Covid-19+nel+contesto+lavorativo+-+versione+vademecum.pdf/ba389a97-5cc5-6bd5-ef7-debe613524c6?version=1.0 [the date of access: March 30, 2021].

\textsuperscript{732} Ibid.
IV. Spain

**Summary**

181. The first state of alarm ended in Spain on June 21, 2020. From June 2020 onwards, Spanish regions (Autonomous Communities) were returned jurisdiction over health-related policies, over which the Spanish regions normally have jurisdiction (para. 177 of Annex 3 to the Analytical Report).

182. Hence, all measures adopted in the period examined in this report (from September 2020 to March 2021) have been passed within the context of the ordinary territorial distribution of powers between the State and the Autonomous Communities that exist in Spain. Since the Spanish Constitution offers the Autonomous Communities the possibility of assuming jurisdiction over health matters (Article 148.1 [xxi]), this means that most of the restrictions taken in order to contain the spread of the virus have been passed by the Autonomous Communities.

183. The second COVID-19 wave started in Spain around September–October 2020, peaked in November in most Autonomous Communities, and was soon followed by the third wave, which started in December 2020 and peaked in January–February 2021. This situation forced the Autonomous Communities to take the necessary measures in order to prevent and deal with the surge in COVID-19 cases. Although full lockdown similar to the one that took place during the first wave has not taken place, some Spanish regions have closed down certain economic sectors during especially critical periods of time. Adopting these measures at the regional and not at the national level has led to a wider variety of restriction levels throughout Spain.

184. In addition, since many of the protective measures taken by the Autonomous Communities entailed restricting fundamental rights and freedoms and courts refused to approve some of those restrictions, it was eventually necessary for the Central Government to pass a Decree declaring another state of alarm, which provided the Autonomous Communities with the necessary basis to dictate certain rules, such as setting curfews or closing regional borders.

185. The Spanish Government has set a vaccination strategy that it constantly updates. The vaccination strategy has divided the population into different groups in order to prioritize and administer the vaccine. The vaccination strategy started with public and private health professionals and residents of retirement homes. It then continued with other frontline workers such as police forces, fire fighters, and teachers, as well as general population starting from the elderly people and moving on down age groups.

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733 La Moncloa. Estado de Alarma. URL: https://www.lamoncloa.gob.es/covid-19/Paginas/estado-de-alarma.aspx [the date of access: March 19, 2021].


736 Ibid.
1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

*Emergency Laws and Regulations*

186. In order to allow the Autonomous Communities to take measures that entailed restricting fundamental rights and freedoms, so that they could protect the public health system if surges in COVID-19 contagion took place, the Spanish Parliament passed Act No. 3/2020 on procedural and organizational measures to deal with COVID-19 in the field of the Administration of Justice.737 This Act, *inter alia*, modified Act No. 29/1998 of July 13, 1998, regulating the Administrative Jurisdiction and introduced two new provisions. On the one hand, it established that High Courts of Justice had to confirm the regulations adopted through urgent procedures by local and regional authorities in order to restrict the fundamental rights and freedoms recognized in Articles 14–32 of the Spanish Constitution with the objective of protecting public health.738 On the other hand, it established that the National High Court had to confirm the regulations adopted through urgent procedures by the Central Government which restrict fundamental rights and freedoms in order to protect public health.739 Administrative Courts of First Instance held jurisdiction over these procedures before these modifications were put in place. However, this led to situations of judicial control over measures even when they did not affect fundamental rights and it was therefore decided that granting jurisdiction over these cases to higher courts would provide a more unified and coherent judicial response ([para. 200 of Annex 3 to the Analytical Report]).

187. In principle, with the introduction of the provisions contained in the Act No. 3/2020 and the legal framework offered by the Spanish health legislation, it was presumed that it would be possible for the Autonomous Communities to introduce provisions that would restrict fundamental rights and freedoms without the need for the Central Government to declare another state of alarm. Hence, when the second COVID-19 wave began in Spain, many Autonomous Communities started adopting regulations that restricted fundamental rights and freedoms through this procedure. However, several Superior Courts of Justice in different Autonomous Communities refused to confirm the taken regulatory measures as they deemed the restrictions lacked sufficient legal backdrop ([paras. 239–276 of Annex 4 to the Analytical Report]).740

188. In order to provide the Autonomous Communities with the necessary legal backdrop to take measures that restrict fundamental rights and freedoms, in October 2020, the Government declared the

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739 Ibid. Article 11.1.i.

second nationwide state of alarm through the Royal Decree No. 926/2020. This state of alarm was initially declared for 15 days but then extended until May 2021 by the Royal Decree No. 956/2020.

Article 2 of the Royal Decree No. 926/2020 establishes that, even though under the state of alarm the competent authority is the Central Government, powers are delegated to the Presidents of the Autonomous Communities so that they can decide whether they want to reduce or set further restrictions on the freedom of movement of people, the right to assembly (right to meet), and the right to attend places of worship.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

National Borders

Spanish national borders were closed to non-essential travel from outside the EU and Schengen area since July 17, 2020. The Resolution declaring this border closure established a list of countries whose citizens were not subject to the travel and border closure restrictions. This list has been constantly updated. When the COVID-19 incidence level significantly increases in a country, it is removed from the list. The border closure is currently in force until April 30, 2021, after the Resolution establishing the border closure was extended and updated for the tenth time on March 29, 2021.

Regardless of the place of origin, from July 1, 2020, when arriving to Spain from other countries, it is compulsory to fill a health control form that must be presented at the Health Control at the airport or port of arrival in Spain.

In addition, if the country of origin is categorized as a risk country, a negative PCR diagnostic test for COVID-19, carried out up to 72 hours before arrival in Spain, must also be presented. The list of risk countries is updated every 15 days.

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743 Ibid. Article 2.


745 Ibid.


747 Ibid. Article 5
Regional, Local Borders, and Curfew

193. When the second wave began in Spain, the Interterritorial Council of the National Health System, which all Autonomous Communities are part of, met and decided to lock down municipalities of more than 100,000 inhabitants with especially high levels of COVID-19 incidence.\(^748\) According to Article 65 of the Act No. 16/2003, this Council has the power to adopt binding decisions in situations of a health crisis (para. 184 of Annex 3 to the Analytical Report).\(^749\) The Health Ministry then passes the agreements reached in the Council and the measures agreed upon implemented by the relevant regional health authorities. Catalonia, Galicia, Andalusia, the Community of Madrid, and the Autonomous City of Ceuta voted against this agreement reached by the Council.\(^750\) However, due to its binding nature, they all had to follow it.

194. Nonetheless, since the measures involved restricting fundamental rights, regional governments still had to ask the relevant courts for confirmation. In the case of Madrid, which was at that time one of the regions in Spain with the highest levels of contagion, the Superior Court of Justice did not confirm the measures (paras. 239–276 of Annex 4 to the Analytical Report).\(^751\)

195. The stance taken by the Court, in combination with the difficulties that the Central Government was having in reaching an agreement with the regional Government of Madrid regarding the restrictions that should be implemented in the Community of Madrid, led the central Government to pass a decree that declared a state of alarm applicable only to the region of Madrid.\(^752\)

196. The central Government declared a state of alarm in those municipalities of the region of Madrid where the level of contagion was particularly high. The source declaring this state of alarm was the Royal Decree No. 900/2020.\(^753\) This Decree banned entering and exiting the municipalities of Alcobendas, Alcorcón, Fuenlabrada, Getafe, Leganés, Madrid, Móstoles, Parla, and Torrejón de Ardoz.

197. The Royal Decree No. 926/2020 established the second state of alarm on the whole Spanish territory, as well as the prohibition to move between the territories of Autonomous Communities.\(^754\) It also

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\(^750\) Section 4 of Resolution of September 30, 2020, of the Health State Secretary, publicizing the Agreement of the Interterritorial Council of the National Health System on the Declaration of Coordinated Actions in Public Health to respond to situations of special risk due to uncontrolled transmission of infections caused by SARS-CoV-2, dated September 30, 2020. URL: https://www.boe.es/buscar/doc.php?id=BOE-A-2020-11590 (the date of access: March 19, 2021).


\(^752\) Madrid, en estado de alarma. El Consultor de los Ayuntamientos. October 9, 2020. URL: https://elconsultor.laley.es/Content/Documento.aspx?params=H4slAAAAAAAEAMtMSbF1TAAAkNTMwsLi7Wzy1KLziPwWjMDIwNDAvNlkeBmWwVLInJIJUgqVpTvIEAP675UETAAAWKE (the date of access: March 21, 2021).

\(^753\) Royal Decree No. 900/2020 of October 9, 2020, declaring a state of alarm to respond to situations of special risk due to uncontrolled transmission of infections caused by SARS-CoV-2. URL: https://www.boe.es/buscar/act.php?id=BOE-A-2020-12102 (the date of access: March 15, 2021).

established that each regional government could decide on closing the borders of geographical areas within the Autonomous Community, such as municipalities. As delegated authorities, the presidents of Autonomous Communities may choose to open up the borders of their region.

The Royal Decree No. 926/2020 set a curfew and banned all circulation on public roads and spaces from 23:00 until 6:00. The Decree allowed regional governments to modify the limitation determining that the start time of the limitation provided for in the decree is between 22:00 and 00:00 hours and the end time of said limitation is between 5:00 and 7:00.

Throughout the months of October and November, most of the Autonomous Communities declared their closure and it was not possible to enter or leave them except with justified causes (for employment or health purposes, for instance). The Autonomous Communities that remain closed are: Galicia, Asturias, Cantabria, the Basque Country, La Rioja, Navarra, Aragón, Catalonia, Castilla la Mancha, Castilla León, the Valencian Community, Murcia, Andalusia, and the Autonomous Cities of Ceuta and Melilla.

As a general rule, the regulations closing down the borders of the Autonomous Communities were initially declared for two weeks and then progressively extended. The borders of the aforementioned regions could be, in principle, closed until the state of alarm is lifted in Spain in May 2021.

When the incidence level became particularly high in certain areas, several Autonomous Communities also closed the borders of municipalities or health areas during limited periods of time. These border closures have taken different forms:

• in Aragón, the regional government has been periodically closing the borders of different municipalities. These decisions are being made with account to the cumulative incidence in each municipality;

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755 Ibid. Article 6.2.
756 Ibid. Article 10.
757 Ibid. Article 5.
758 See, for instance, Decree No. 27/2020 of October 26, 2020, of the President of the Principality of Asturias, adopting measures to contain the spread of infections caused by SARS-CoV-2 in the framework of the state of alarm. URL: https://sede.asturias.es/bopa/2020/10/26/20201026Su1.pdf (the date of access: March 17, 2021); Decree-Law No. 7/2020 of October 19, 2020, of the Government of Aragon, establishing the legal regime of health warning for the control of the COVID-19 pandemic in Aragon. URL: https://www.boe.es/buscar/act.php?id=BOA-d-2020-90411&p=20201019&in=1#ci-2 (the date of access: March 17, 2021); Decree No. 15/2020 of October 30, 2020, adopting temporary and exceptional measures in the Valencian Community, as a consequence of the health crisis caused by COVID-19 and under the declaration of the state of alarm. URL: https://www.dogv.gva.es/datos/2020/10/30/pdf/2020_9091.pdf (the date of access: March 17, 2021); Presidential Decree No. 8/2020 of 29 October establishing measures in the Autonomous Community of Andalusia in application of Royal Decree No. 926/2020 of October 25, 2020, declaring a state of alarm to contain the spread of infections caused by SARS-CoV-2. URL: https://www.juntadeandalucia.es/boja/2020/572/1 (the date of access: March 17, 2021).
760 The regulatory instruments cited in the previous footnotes are the first ones that were adopted in order to close down the borders of each Autonomous Community. Several regulations were adopted in every region afterwards in order to extend the duration of border closures.
in the Valencian Community, during February, all municipalities of over 50,000 inhabitants had their borders closed only during the weekends.  

202. The Balearic and Canary Islands, Extremadura, and Madrid generally remain open. However, this does not mean that there are no control or restrictions in those Autonomous Communities. For example:

- the Community of Madrid had periodically closed down those health areas within its territory in which the incidence level was very high;  
- the Canary Islands requests individuals visiting the region to have tested negative for COVID-19 72 hours prior to their arrival in the region. Hotels, touristic apartments, and related businesses are charged with the responsibility of ensuring that their guests comply with the said rule.

203. The measures regarding border closures significantly changed during the winter holidays (from December 23 to January 6, 2020) in some Autonomous Communities:

- certain Autonomous Communities temporarily opened their borders during the winter holidays but only in order to reunite family members during this period. This was, for example, the case of the Region of Murcia;  
- some of the regions that had closed down municipalities or geographical areas opened up internal regional borders during this period. Those include, for example, Andalusia and Cantabria.

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762 Decree No. 2/2021 of January 24, 2021, of the President of the Generalitat, limiting the presence of groups of people in public and private spaces, extending the measure restricting the entry and exit of people from the territory of the Valencian Community and limiting, during weekends and public holidays, the entry and exit of municipalities and groups of municipalities with a population of more than 50,000 inhabitants. URL: https://www.dogv.gva.es/datos/2021/01/25/pdf/2021_670.pdf (the date of access: March 19, 2021).

763 See, for example, Order 1465/2020 of October 30, 2020, of the Regional Health Secretary, modifying Order No. 1405/2020 of October 22, 2020, of the Regional Health Secretary, adopting specific temporary and exceptional measures for public health reasons for the containment of COVID-19 in certain areas, as a result of epidemiological developments. URL: https://www.codem.es/Adjuntos/CODEM/Documentos/Informaciones/Publico/d0386888-e45e-43bc-bcfa-da85b7d9507f/326171AD-F028-4796-8CCB-2B02A2443DA2/07ef0e07-d19a-4018-bfe1-3b3163d87ab6/07ef0e07-d19a-4018-bfe1-3b3163d87ab6.PDF (the date of access: March 17, 2021).


767 Decree No. 13/2020 of December 17, 2020, of the President of the Autonomous Community, adopting measures to limit the freedom of movement of persons at night; limiting the stay of groups of persons in public and private spaces; and limiting the entry and exit of persons from the territory of Cantabria. URL: https://boc.cantabria.es/boces/verAnuncioAction.do?idAnuBlob=356678 (the date of access: March 16, 2021).
other regions opened their borders or kept them open but closed down the municipalities or geographical areas within them in which there was an especially high level of COVID-19 incidence. This was the case with the Canary Islands;768

- Extremadura769 and Madrid, which have generally kept their borders open so far, specifically closed them down for the winter holidays but allowed travel in order to reunite with family members. In Madrid, this authorization was also extended to “close ones.”770 Since no specific definition of what “close ones” was provided by the regulatory instrument, the possibility of traveling to the Community of Madrid was, in fact, hardly restricted.

Transport

204. Autonomous Communities have jurisdiction over transport routes that take place within their territory. Regional Governments,771 local authorities,772 and public transportation companies773 have established maximum capacity rules for both public and private means of transportation.

Public Health

205. The Royal Decree-Law No. 29/2020 allows the Autonomous Communities to:

- carry out exceptional hiring procedures;
- force health professionals to practice in a different field of medical specialty to the one they normally practice in; and

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768 Decree No. 91/2020 of December 16, 2020, of the President, establishing new specific measures of an extraordinary nature during the preparation and celebration of the Christmas holidays on the island of Tenerife, in application of Royal Decree No. 926/2020 of October 25, 2020, declaring a state of alarm, to contain the spread of infections caused by SARS-COV-2. URL: http://www.gobiernodecanarias.org/boc/2020/261/index.html (the date of access: March 16, 2021).


770 Decree No. 42/2020 of December 18, 2020, of the President of the Community of Madrid, establishing limitation measures for the celebration of the Christmas holidays in the Community of Madrid, adopted to deal with COVID-19, in application of Royal Decree No. 926/2020 of October 25, 2020, of the Council of Ministers, declaring a state of alarm to contain the spread of infections caused by SARS-CoV-2. URL: http://www.bocm.es/boletin/CM_Orden_BOCM/2020/12/19/BOCM-20201219-1.PDF (the date of access: March 16, 2021).


• modify some of their working conditions if the health crisis requires it. These modifications may involve, for instance, making them work in a hospital or health center different from the one they are assigned to.774

206. Several Autonomous Communities have taken measures to modify working conditions and expanded their public health surveillance and warning systems in order to adapt them to the specific needs of the COVID-19 pandemic and mainly focus on risk groups.775

**Education**

207. The Royal Decree-Law No. 31/2020 of September 29, 2020, adopting urgent measures in the field of non-university education established that all non-university education must be carried out physically but provided educational centers with the possibility of modifying learning objectives and curricula in order to adapt them to the needs generated by the COVID-19 pandemic.776

208. Specific aid and support programs for semi-public and public schools and organizations that carry out extracurricular activities have been set up in some Autonomous Communities to ensure that all educational centers have the necessary resources to continue providing their services if part of a school or the whole school were to close down at some point. These support measures are also aimed at ensuring that children from families with fewer resources have full access to education.777

209. Universities have mainly adopted a hybrid model. During periods in which there had been a very high incidence level, certain regions had closed down universities and carried out classes through online platforms.778

**Freedom of Religion**

210. In general, the Autonomous Communities have set restrictions to the number of individuals that may attend places of worship to around 30–50% of maximum capacity. Restrictions have also been set regarding the maximum number of individuals that can attend worship activities in open spaces. The


778 See, for example, Article 6 of the Order of November 8, 2020 modulating warning levels 3 and 4 as a consequence of the critical epidemiological situation resulting from COVID-19 in the Autonomous Community of Andalusia. URL: https://www.juntadeandalucia.es/boja/2020/577/6 (the date of access: March 14, 2021) and Article 12 of Resolution SLT/2546/2020 of October 15, 2020, adopting new public health measures to contain the epidemic outbreak of the COVID-19 pandemic in the territory of Catalonia. URL: https://portaldocg.gencat.cat/utilsEADOP/PDF/8248/1816959.pdf (the date of access: March 18, 2021).
possibility of carrying out these activities is always conditional on the possibility of maintaining social distancing between attendees.⁷⁷⁹

Penalties

211. Some Autonomous Communities have set specific penalty and sanctioning regimes for non-compliance with prevention and containment measures. For instance, the Canary Islands,¹⁷⁸⁰ Castilla León,¹⁷⁸¹ and Navarra.¹⁷⁸²

212. These rules all follow the same logic and introduce three types of offenses (minor, serious, and very serious). Minor offenses include, for example, not wearing a mask or wearing it incorrectly or not complying with social distancing rules by restaurant owners. Serious offenses include, for example, the infringement of maximum capacity rules in restaurants. Very serious offenses include, for example, opening up businesses that have been mandated to close down.¹⁷⁸³

213. Minor offenses can be punished with a penalty of EUR 100 to EUR 3,000; serious offenses can be punished with a penalty of EUR 3,001 to EUR 60,000 and very serious offenses can be punished with a penalty of EUR 60,001 to EUR 600,000.¹⁷⁸⁴

214. These regulatory instruments follow the general framework set by the Organic Act No. 4/2015 for the protection of citizens’ security,¹⁷⁸⁵ which was the Act used by authorities to sanction for non-compliance with COVID-19 rules during the first wave. However, these regulations modify the quantities regarding

⁷⁷⁹ See, for example, Article 3 of the President’s Decree No. 16/2020 of November 4, 2020, on additional specific measures to contain the spread of infections caused by SARS-CoV-2 in the Autonomous Community of La Rioja. URL: https://ias1.larioja.org/boletin/Boletin_visor_Servlet?referencia=14407641-1-PDF-534432-X and Article 6 of Resolution SLT/2546/2020 of October 15, 2020, adopting new public health measures to contain the epidemic outbreak of the COVID-19 pandemic in the territory of Catalonia. URL: https://portaldoc.gencat.cat/utilsEADOP/PDF/8248/1816959.pdf (the date of access: March 18, 2021).


¹⁷⁸⁴ Ibid.

serious and very serious offenses as the Organic Act No. 4/2015 for the protection of citizens’ security sets penalties for serious offenses from EUR 3,001 to EUR 30,000 and for very serious offenses from EUR 30,001 to EUR 600,000.

Measures Adopted With the Objective of Returning to the Normal Functioning of Services After the COVID-19 First Wave

215. The Act No. 3/2020786 establishes the preferential processing of certain proceedings that directly arise from the COVID-19 health crisis and those that have been affected by its consequences. This Act also establishes a series of measures to enable the development of many court hearings and other types of procedures that require the intervention of judicial bodies through electronic means.787

216. Regional public administrations have passed rules in order to expand the functioning of the e-Administration and ensure that as many administrative procedures are carried out through electronic means. For instance, in Andalusia, all of the paperwork involved in public employment calls is carried out through electronic means now.788

217. Some regions have adopted rules regulating telework in the public sector in order to ensure that public services continue working and being delivered. For instance, the Community of Madrid adopted the Decree No. 79/2020 of September 16, 2020, which regulates the modality of providing services under the teleworking regime in the Administration of the region of Madrid.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors

218. Several Autonomous Communities temporarily closed down businesses, such as gyms and restaurants, for a limited period of time when the cumulative incidence was very high. Amongst the regions


787 Ibid.

that have adopted these measures are Catalonia,\textsuperscript{789} the Valencian Community,\textsuperscript{790} the Basque Country,\textsuperscript{791} and Galicia.\textsuperscript{792}

219. Other regions, such as Andalusia, have opted for closing down businesses in specific municipalities or areas where the incidence of COVID-19 had been especially high. In this sense, the Order of November 8, 2020, modulating COVID-19 warning levels 3 and 4 as a consequence of the critical epidemiological situation resulting from COVID-19 in the Autonomous Community of Andalusia, placed the province of Granada in the highest possible level of warning, thereby, closing businesses, such as gyms, shopping centers, theaters, and restaurants.\textsuperscript{793}

220. Opening time for different types of businesses, particularly for bars and restaurants, as well as retail shops, has been constantly shifting. Depending on the region and time period, such organizations were allowed to either maintain their normal opening schedule (as long as they respected the night circulation ban) or their opening hours were limited and they had been forced to close earlier in order to prevent them from serving dinners.\textsuperscript{794}

221. Museums, theaters, and cinemas were also closed in some cases when the COVID-19 incidence level had heavily increased, and it is mandatory to wear a mask inside such places at all times.\textsuperscript{795}


\textsuperscript{790} Decree No. 2/2021 of January 24, 2021, of the President of the Generalitat, which limits the stay of groups of people in public and private spaces, extends the measure restricting the entry and exit of people from the territory of the Comunitat Valenciana and limits, during weekends and public holidays, the entry and exit of municipalities and groups of municipalities with a population of more than 50,000 inhabitants. URL: http://www.dogv.gva.es/portal/ficha_disposicion.jsp?L=1&sig=000676%2F2021 (the date of access: March 19, 2021).

\textsuperscript{791} Decree No. 4/2021 of January 22, 2021, of the Lehendakari, on the third amendment of Decree No. 44/2020 of December 10, 2020, on the consolidation into a single text and updating of specific prevention measures, in the context of the declaration of the state of alarm, as a result of the evolution of the epidemiological situation and to contain the spread of infections caused by SARS-CoV-2. URL: https://www.poderjudicial.es/search/openDocument/1286da023d243b04 (the date of access: March 19, 2021).

\textsuperscript{792} Order of January 26, 2021 establishing specific prevention measures as a consequence of the evolution of the epidemiological situation resulting from COVID-19 in the Autonomous Community of Galicia. URL: https://www.xunta.gal/dog/Publicados/excepcional/2021/20210126/2549/AnuncioC3K1-260121-7_es.html (the date of access: March 19, 2021).

\textsuperscript{793} Junta de Andalucía. Orden de 8 de noviembre de 2020, por la que se modulan los niveles de alerta 3 y 4 como consecuencia de la situación crítica epidemiológica derivada del COVID-19 en la Comunidad Autónoma de Andalucía. URL: https://www.juntadeandalucia.es/boja/2020/577/6 (the date of access: March 14, 2021).

\textsuperscript{794} See, for example, Resolution of January 19, 2021, of the Regional Minister for Universal Health and Public Health, establishing exceptional and additional measures in the Comunitat Valenciana as a result of the worsening of the health crisis situation caused by COVID-19. URL: http://dogv.gva.es/datos/2021/01/20/pdf/2021_530.pdf (the date of access: March 19, 2021).

\textsuperscript{795} See, for example, Article 4 of Order of January 26, 2021, establishing specific prevention measures as a consequence of the evolution of the epidemiological situation resulting from COVID-19 in the Autonomous Community of Galicia. URL: https://www.xunta.gal/dog/Publicados/excepcional/2021/20210126/2549/AnuncioC3K1-260121-7_es.html (the date of access: March 19, 2021).
222. The maximum capacity of all businesses serving clients has been reduced, generally from 30 to 50% of normal capacity.\footnote{796 See, for example, Resolution of November 5, 2020, of the Regional Secretary of Health, adopting measures of the Organic Law No. 3/1986 of April 14, 1986, on Special Public Health Measures, to contain the spread of COVID-19 in the territorial scope of the autonomous community of Castilla-La Mancha. URL: https://docm.castillalamancha.es/portaldocm/descargarArchivo.do?ruta=2020/11/06/pdf/2020_9126.pdf&tipo=rutaDocm [the date of access: March 19, 2021].}

2.3. Containment Measures Regarding Population

Social Gatherings

223. Rules for the number of people that can be at social gatherings have been constantly modified since September of 2020. These rules focus on the number of people who can be in public and private spaces and the number of households (which are labeled as living groups) that can come together.\footnote{797 See, for example, Article 1.2 of the Resolution of October 24, 2020, of the Regional Department of Universal Health and Public Health, agreeing on additional exceptional measures in the Valencian Community, as a consequence of the health crisis situation caused by COVID-19. URL: http://dogv.gva.es/datos/2020/10/24/pdf/2020_8861.pdf [the date of access: March 19, 2021].}

Other Restrictions

224. It is mandatory to wear masks at all times in closed and open spaces. Masks can only be removed while eating or drinking.\footnote{798 Act No. 2/2021 of March 29, 2021, on urgent prevention, containment, and coordination measures to deal with the health crisis caused by COVID-19. URL: https://www.boe.es/buscar/act.php?id=BOE-A-2021-4908 [the date of access: March 30, 2021].} In some cases, regions have established more flexible measures regarding the use of masks when practicing sports.\footnote{799 See, for example, Resolution of February 26, 2021, of the Regional Department Universal Health and Public Health, establishing measures relating to the use of masks for the containment of the epidemic outbreak of the COVID-19 pandemic. URL: http://dogv.gva.es/datos/2021/02/27/pdf/2021_1932.pdf [the date of access: March 30, 2021].}

225. Many regions have temporarily banned smoking in public and open spaces, including bars or restaurant terraces.\footnote{800 See, for example, Article 11 of the Foral Decree-Law No. 8/2020 of August 17, 2020, approving extraordinary measures in the Community of Navarre to respond to the special risk situation arising from the increase in the number of positive cases of COVID-19. URL: https://www.boe.es/boe/dias/2020/09/29/pdfs/BOE-A-2020-11364.pdf [the date of access: March 30, 2021]; Resolution of February 25, 2021, of the Regional Department of Universal Health and Public Health, by which new measures are agreed, as a consequence of the health crisis situation caused by COVID-19. URL: http://dogv.gva.es/datos/2021/02/26/pdf/2021_1854.pdf [the date of access: March 16, 2021].}

2.4. Support Measures for Industrial and Non-Productive Sector

Measures Adopted by the Central Government

226. The Central Government has adopted several regulatory instruments that establish the possibility of providing economic aid to sectors that have been particularly affected by the COVID-19 pandemic. For example:
• the Royal Decree No. 866/2020 of September 29, 2020, regulates the direct granting of subsidies to various bodies and entities in the tourism sector as it has been one of the economic sectors that are suffering the most from the consequences of the COVID-19 pandemic;  

• the Royal Decree No. 883/2020 of October 6, 2020, specifically establishes the regulatory bases for the granting of subsidies for the COVID-19 health crisis in the cut flower and ornamental plant sector.

**Measures Adopted at the Regional Level**

227. Economic measures to support the economic sectors that have been most heavily hit by the health crisis have been adopted, including, for example:

• in Andalusia, economic measures have been adopted to provide aid to industrial SMEs affected by the health crisis and to the aquaculture sector;

• in the Valencian Community, the Decree-Law No. 15/2020 of October 23, 2020, provided for economic aid to compensate the losses suffered due to the COVID-19 pandemic by companies engaged in regular inter-urban public transport of passengers and travelers within the region.

228. Measures have been taken in order to simplify all types of procedures to initiate economic activities and expand or renovate industrial installations and businesses in general. Some aid has been specifically directed towards the tourism sector. As an example, this type of measure was adopted by the Decree-Law No. 15/2020 of September 10, 2020, on urgent measures to boost the primary, energy, tourism, and territorial sectors of the Canary Islands.

229. Autonomous Communities have also issued authorizations for businesses to expand the types of services they offer. For example, the Decree-Law No. 8/2020 of September 3, 2020, amending Law No. 7/2006 of October 2, 2020, on Public Entertainment and Recreational Activities of the Community of

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801 Royal Decree No. 866/2020, of September 29, 2020, which regulates the direct granting of subsidies to various bodies and entities in the tourism sector by the Ministry of Industry, Trade and Tourism, during the 2020 budget year. URL: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-11422 (the date of access: March 16, 2021).


806 Decree-Law No. 15/2020 of September 10, 2020, on urgent measures to boost the primary, energy, tourism, and territorial sectors of the Canary Islands. URL: https://www.boe.es/buscar/act.php?id=BOC-j-2020-90372 (the date of access: March 16, 2021).
Castilla y León provides businesses registered as carrying out restaurant and hotel activities with the possibility to expand their business scope to leisure and entertainment activities.\(^{807}\)

230. Tourism promotion programs have also been adopted. These programs provide all citizens within each region with the possibility of requesting that up to 50% of their hotel costs for any trip carried out within the territory of the Autonomous Community where they reside be covered by the regional government [limits are set regarding the maximum amount that can be granted to each person].\(^{808}\) The objective of this measure is to promote tourism and boost the economic activity of hotels and other tourism-related businesses.

231. Measures have been adopted to promote telework by setting up financial aid to specifically help companies adapt to teleworking strategies. For instance, the region of Castilla la Mancha has adopted the Decree No. 61/2020 of September 29, 2020, regulating the direct award of subsidies aimed at self-employed workers and SMEs to promote remote working as a form of work organization.\(^{809}\)

232. Financial aid measures have also been adopted to help businesses, in particular, SMEs, to pay for the lease of establishments where they carry out their activity.\(^{810}\)

2.5. Support Measures for Population

**Measures Adopted by the Central Government**

233. The Royal Decree-Law No. 28/2020 of September 22, 2020, on teleworking\(^{811}\) and the Royal Decree-Law No. 29/2020\(^{812}\) regulate telework in both public and private sector. The objective of these rules is to ensure that workers’ rights are respected when teleworking.

234. The Royal Decree-Law No. 30/2020 of September 29, 2020, on social measures in defense of employment\(^{813}\) has extended specific unemployment benefits for workers employed at companies that had

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\(^{808}\) For example, Decree No. 156/2020 of October 16, 2020, of the Council, approving the regulatory bases and the direct granting of aid for the “Bono Viaje Comunitat Valenciana” program, to encourage the demand for domestic tourist services affected by COVID-19. URL: http://dogv.gva.es/datos/2020/10/17/pdf/2020_8557.pdf (the date of access: March 18, 2021).

\(^{809}\) Decree No. 61/2020, of September 29, 2020, which regulates the direct granting of subsidies aimed at self-employed workers and SMEs to promote telecommuting as a work organization modality, on the occasion of the COVID-19 health crisis. URL: https://docm.castillalamancha.es/portaldocm/descargarArchivo.do?ruta=2020/10/06/pdf/2020_7204.pdf&tipo=rutaDocm (the date of access: March 18, 2021).

\(^{810}\) See, for instance, Decree Law No. 34/2020 of October 20, 2020, on urgent measures to support economic activity carried out in leased business premises (Catalonia). URL: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-16371 (the date of access: March 19, 2021).


to halt or reduce temporarily their activity due to the COVID-19 pandemic. This regulatory instrument has also established specific benefits that could be requested by self-employed individuals that had to halt or reduce their activity due to the COVID-19 pandemic. The sunset clause for this measure was set for January 31, 2021 (paras. 207–210 of Annex 3 to the Analytical Report). However, it was extended until May 31, 2021 through the adoption of the Royal Decree-Law No. 2/2021 of January 26, 2020, on the reinforcement and consolidation of social measures in defense of employment.\textsuperscript{814}

235. The Spanish Government has also extended the temporary suspension of those eviction procedures that might affect vulnerable individuals and families.\textsuperscript{815}

\textit{Measures Adopted at the Regional Level}

236. The Autonomous Communities have also established specific rules to provide economic aid to self-employed individuals affected by the health crisis and to individuals who have become temporarily unemployed due to sector-specific lockdowns that took place after September 2020. These economic benefits were compatible with other support and aid systems provided at the national level (paras. 234–235 of Annex 4 and paras. 201, 207–209 of Annex 3 to the Analytical Report).\textsuperscript{816}

237. Rules have been adopted to provide families with different forms of support and financial aid for children, elderly people, individuals with disabilities, or those who are dependent on others and in any way must remain at home due to having been tested positive for COVID-19 or having been in contact with someone who has tested positive. For example, in Castilla León, the Decree-Law No. 9/2020 of September 10, 2020, has adopted extraordinary measures to support individuals and families for the home care of minors, dependent persons, or persons with disabilities, who must be confined to their homes due to the COVID-19 pandemic.\textsuperscript{817}

238. Measures have also been adopted in order to extend the social safety net aimed towards protecting individuals in vulnerable situations and at risk of social exclusion:

- some of the Autonomous Communities that did not have rules establishing a Minimum Vital Income have passed regulatory instruments in order to ensure that individuals and households that had no form of income obtained a minimum monthly economic aid.\textsuperscript{818} If each regional

\textsuperscript{814} Royal Decree-Law No. 2/2021, of January 26, 2020, on the reinforcement and consolidation of social measures in defense of employment. URL: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-1130 (the date of access: March 20, 2021).

\textsuperscript{815} Royal Decree-Law No. 27/2020 of December 22, 2020, on urgent measures to address situations of social and economic vulnerability in the field of housing and transport. URL: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-16824 (the date of access: March 18, 2021).

\textsuperscript{816} See, for example, Order of the Regional Department of Employment, Research and Universities, of regulatory bases for subsidies aimed at self-employed workers to alleviate the economic losses caused by COVID-19 (Murcia). URL: https://www.borm.es/services/anuncio/ano/2020/numero/2203/pdf?id=784663 (the date of access: March 20, 2021).

\textsuperscript{817} Decree-Law No. 9/2020, of September 10, 2020, adopting extraordinary measures to support individuals and families for the home care of minors, dependent persons, or persons with disabilities who must be confined to their homes due to the COVID-19 pandemic. URL: https://bocyl.jcyl.es/boletines/2020/09/11/pdf/BOCYL-D-11092020-1.pdf (the date of access: March 15, 2021).

\textsuperscript{818} See, for instance, Act No. 3/2020 of October 27, 2020, on urgent social measures aimed at people in a situation of vulnerability as a result of the health crisis caused by COVID-19 and amending the Law 16/2019 of May 2, 2019, on social services in the Canary Islands. URL: https://www.boe.es/diario_boe/txt.php?id=BOE-A-2020-14454 (the date of access: March 15, 2021).
government decides to allow it, the regional Minimum Vital Income may be compatible with the equivalent form of aid regulated by the Spanish Government;819

- financial aid measures have also been adopted and extended in order to provide individuals with help by paying their housing rental contracts.820

3. Court Practice With Respect to the COVID-19 Pandemic

3.1. Court Resolutions Regarding the Declaration of the State of Alarm

Several claims regarding the declaration of the state of alarm were brought before courts in Spain.

In the Spanish Constitutional Court’s Resolution of December 11, 2020,821 the Court rejected the application for the special protection of fundamental rights through which the plaintiff (who is a Member of the Spanish Parliament) attempted to appeal the content of the Royal Decree No. 926/2020, which declared the second state of alarm, and the Royal Decree No. 956/2020, which extended the state of alarm from October 2020 to May 2021. Although the Royal Decrees that constitute the formal regulatory instruments to declare the state of alarm have the form of a regulation issued by the Council of Ministers and, thus, in principle, do not have an equal value to a legislative Act, due to the particular nature of this regulatory instrument they can be considered as a legislative Act.

Since Congress must meet (and met) right after the state of alarm was declared and it must vote in favor of extending the time limit beyond 15 days (which the Spanish Congress also voted for repeatedly) and also considering that the state of alarm is precisely foreseen by the Constitution as a state of exceptionality in the legal system, the Court considered that the Royal Decrees No. 926/2020 and No. 956/2020 must be treated as regulatory instruments with the force of law. Since regulatory instruments with the force of law can only be appealed through a claim of unconstitutionality before the Constitutional Court and not through the procedure for the special protection of fundamental rights, the plaintiff’s claim was rejected (Articles 161–162 of the Spanish Constitution).

The Supreme Court had already issued a similar resolution in May 2020 regarding the Royal Decree No. 463/2020, which declared the first state of alarm (paras. 187–198 of Annex 3 to the Analytical Report). The Supreme Court declared that it had no jurisdiction to determine the legality of the declaration of the state of alarm because as stated in the previous paragraph, it is the Constitutional Court that has this jurisdiction.822

819 Las comunidades autónomas ultiman distintas fórmulas para hacer convivir sus rentas básicas con el Ingreso Mínimo Vital. Infolibre. 16.03.2021. URL: https://www.infolibre.es/noticias/politica/2020/06/13/de_complementacion_sustitucion_integra_las_rentas_autonomicas_preparan_para_convivencia_con_ingreso_minimo_vital_107704_1012.html [the date of access: March 30, 2021].

820 See, for example, Citizen Guide on measures regarding housing in the context of the COVID-19 crisis. Community of Madrid. URL: https://www.comunidad.madrid/sites/default/files/doc/vivienda/guia_medidas_covid_19_1_de_octubre_de_2020_v6_b.pdf [the date of access: March 18, 2021].


822 Supreme Court (Administrative Section) Resolution No. 2478/2020 of May 4, 2020, Appeal No. 99/2020. URL: https://www.poderjudicial.es/search/AN/openDocument/ee23a58112d68659/20200508 _1_de_octubre_de_2020_v6_b.pdf [the date of access: March 18, 2021].
243. 52 members of the Spanish Parliament lodged an unconstitutionality appeal of the Royal Decree No. 926/2020 and the Royal Decree No. 956/2020. The Court admitted the appeal for an examination in its resolution of December 17, 2020. The Spanish Constitutional Court is still examining the case and has not yet issued a final judgment.

3.2. Resolutions Confirming or Rejecting the Adoption of Measures by Regional Governments

244. Since the Act No. 3/2020 was passed, the Superior Courts of Justice have had to issue resolutions on the lawfulness of the measures taken by the Autonomous Communities to deal with the pandemic and restricting the fundamental rights of individuals [Articles 14–32 to the Spanish Constitution]. In this context, most court rulings have confirmed the legal instruments adopting the measures. However, there are some specific cases in which the adoption of certain measures was rejected. These instances mainly took place before the second state of alarm and are described below.

*Measures Establishing Curfew*

245. Several Autonomous Communities began setting night mobility restrictions from October 2020.

246. In Castilla León, the said restriction was first established by the region’s Governmental Agreement No. 73/2020. The Superior Court of Justice of Castilla León rejected the adoption of said measure when the Government applied for its authorization:

- the Court argued that the restrictions to fundamental rights that could be adopted were only those allowed by the Spanish health legislation;
- according to the Court, this regulatory context and in particular Organic Act No. 3/1986 on Special Measures on Public Health does not provide a sufficient legal backdrop to such a restrictive measure of the right to free movement of people;
- Article 3 of Organic Act No. 3/1986 establishes that “In order to control transmissible diseases, the health authority may, in addition to general preventive actions, take appropriate measures for the control of sick persons, persons who are or have been in contact with them and the immediate environment, as well as those considered necessary in case of risk of a contagious


825 Agreement No. 73/2020 of October 23, 2020, of the Government of Castilla y León partially and temporarily restricting the freedom of movement of persons in the Community of Castilla y León for very serious public health reasons, affecting certain measures of the plan of prevention and control measures to deal with the health crisis caused by COVID-19 in the Community of Castilla y León, approved by Agreement No. 46/2020 of August 20, 2020, of the Junta de Castilla y León. URL: https://www.saludcastillayleon.es/institucion/en/recopilacion-normativa/salud-publica/epidemiologia/acuerdo-73-2020-23-octubre-junta-castilla-leon-limita-parci (the date of access: March 19, 2021).

nature.” However, the Court considered that this provision did not provide for the adoption of such heavy restrictions on the fundamental rights of all individuals within the territory of the Autonomous Community;

- the Court considered that, in order to take such a restrictive measure, it is necessary to base it on the legal framework offered by a declaration of the state of alarm. In this context, it is relevant to point out that this particular court resolution was issued the day before the Royal Decree No. 926/2020 entered into force, declaring the second state of alarm and a nationwide curfew.

247. In the Valencian Community, night mobility restrictions were set on October 24, 2020. The Court resolution authorizing these measures was issued on October 27, 2020: 827

- the main difference between this case and the case regarding curfew measures in Castilla León was that the resolution of the Superior Court of Justice of the Valencian Community was issued after the Royal Decree No. 926/2020 entered into force;

- however, in both cases, the regional Governments adopted curfew measures before the nation-wide curfew was adopted by the central Government through the Royal Decree No. 926/2020;

- the resolution issued by the Superior Court of Justice of the Valencian Community also entered the discussion on whether the health legal framework offers a sufficient legal backdrop for the Governments of Autonomous Communities to take measures that restrict fundamental rights in the context of a health crisis;

- the Court contended that it is vital to take into consideration that the measures examined do not entail the absolute suspension of fundamental rights but their restriction. It means that the possibility of exercising the fundamental rights affected (namely, the freedom of movement) is not completely precluded but just partially restricted;

- the Court also indicated that the very reason why the Organic Act No. 3/1986 is an Organic Act and not an Ordinary Act, is that it regulates the possibility of restricting fundamental rights; 828

- in this case, the Court argued that Article 3 of the Organic Act No. 3/1986 does, in fact, provide a sufficient legal basis for regional Governments to take measures that restrict the fundamental rights of citizens. In particular, Article 3 states that “In order to control transmissible diseases, the health authority may, in addition to general preventive actions, take … [those measures] considered necessary in case of risk of a contagious nature.” Thus, the Court considered that this provision left the door open to take measures such as night movement restrictions.


828 In Spain, fundamental rights can only be regulated through Organic Acts, which require the favorable vote of the absolute majority of Parliament.
Measures Closing the Borders of the Autonomous Communities

248. All Courts have upheld the decisions of regional Governments to close the borders of the Autonomous Communities.

249. Navarra and La Rioja were the only two cases of regional Governments that decided to close their borders before the Royal Decree No. 926/2020 declared the second state of alarm. Although this decision could have been controversial, in both cases, the regional Superior Courts of Justice confirmed this measure as they considered that the restrictions to fundamental rights were proportional and adequate in order to deal with the growing number of COVID-19 cases.829

250. However, the Superior Court of Justice of Navarra did criticize the regional Government for not requesting prior authorization when adopting the measures and in its resolution advised the regional Government to request prior authorization from the court instead of ratification of measures in the future.

Other Measures Restricting Freedom of Movement of People

251. Some Autonomous Communities have had geographical areas within their borders closed down. These decisions have received a mixed response from Courts, which, in several cases, have rejected confirming the decision to close down certain areas or municipalities.

252. The Superior Court of Justice of Madrid in its resolution of October 8, 2020,830 considered that the closure of certain municipalities of the Community of Madrid ordered by the Spanish Health Ministry831 and executed by the Health Department of Madrid832 lacked sufficient legal basis.

253. The decision to lock down municipalities of more than 100,000 inhabitants with an especially high level of COVID-19 incidence was based on the agreement reached at the Interterritorial Council of the National Health System. Catalonia, Galicia, Andalusia, the Community of Madrid, and the Autonomous City of Ceuta voted against this agreement, however, due to its binding nature, they all had to follow through with it [paras. 193–194 of Annex 4 to the Analytical Report].

254. The Court considered that, even though Article 65 of the Act No. 16/2003 does provide the aforementioned Interterritorial Council with the power to adopt binding decisions that must be

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implemented by the relevant health authorities at the regional level, the Act does not provide the Council with the possibility of making decisions that involve restrictions on fundamental rights.

255. The Superior Court of Justice of Aragón also rejected closing down the borders of the municipality La Almunia de Doña Godina where the level of COVID-19 incidence was very high. In this case, the Court based its ruling on the fact that Article 3 of the Organic Act No. 3/1986 does not provide public authorities with the power to adopt such a heavy restriction of such fundamental right as the freedom of movement (Article 19 of the Spanish Constitution). In that case, the measure adopted did not result from the aforementioned agreement reached by the Interterritorial Council. The regional Government of Aragón took this measure due to the growing concern with the spread of COVID-19 in the aforementioned municipality.

256. Conversely, the Superior Court of Justice of Castilla León confirmed the decision adopted by the regional Government to close the borders of certain municipalities which met the criteria set by the agreement adopted by the Interterritorial Council. In this case, the Court considered that the measure, which restricted fundamental rights, was proportional and sufficiently backed by the health legal framework and the Interterritorial Council’s agreement. This decision stands in stark contrast with the decision adopted by this very Court which rejected night mobility restrictions. The difference between both decisions is the fact that, in this case, fundamental rights were restricted in a more specific manner that addressed more precisely the risk that existed in certain geographical areas.

**Measures Restricting the Right to Assembly (Right to Meet)**

257. Regional Governments have restricted the right to assembly (recognized by Article 21 of the Spanish Constitution) by limiting the number of individuals who can meet in public and private spaces.

258. Courts had mostly confirmed the adoption of this type of measure. For instance, the Superior Court of Justice of Castilla León confirmed the measures adopted by the regional Government which limited the number of people who could meet. The Court considered that, given the high levels of the spread of COVID-19, this measure was justified and proportional. In addition, the Court came to the conclusion that the health legal framework authorized the regional Government to adopt a measure that restricted fundamental rights in this way due to the fact that this restriction was very specific.

259. Contrariwise, the Superior Court of Justice of the Basque Country considered that the Spanish health legal framework does not provide sufficient legal basis to limit the right to assembly to six people in the pandemic context. As it happened with most of the court resolutions that confirmed or rejected the measures adopted by regional Governments in the procedure set by Article 10.8 of the Act No. 29/1998
(introduced by the Act No. 3/2020) [paras. 186–187 of Annex 4 to the Analytical Report], the provision that the Court examined in this case in order to determine whether the measure adopted had sufficient legal basis was Article 3 of the Organic Act No. 3/1986. The Court considered that this provision only allows the restriction of the fundamental rights of individuals who have contracted a contagious illness and those who have been in close contact with them. Hence, it is not possible to generally restrict the right to assembly.

3.3. Resolutions Regarding Claims Against Measures Adopted or the Action (or Inaction) of Public Authorities

Claims Regarding General Measures

Freedom to Conduct a Business

260. When it came to courts confirming measures that limited business opening times or closed down a whole sector altogether, the judiciary confirmed the actions adopted by regional Governments. However, courts’ response was more varied when specific claims were filed in order to request the adoption of precautionary measures that provisionally quashed the measures adopted by regional Governments. Hence, even though in these cases most courts upheld the measures adopted, there were also some examples when the request filed by representatives of certain economic sectors for reopening of their businesses was accepted.

261. On March 11, 2021, the regional Government in the Valencian Community decided to lift some of the restrictions that had been in place since January 2020, therefore, allowing businesses, such as gyms and the interior of restaurants, to open. However, the Government decided to keep recreational and gambling establishments closed. The trade union representing the workers of establishments and spaces dedicated to recreational and gambling activities appealed this decision and requested the Superior Court of Justice of the Valencian Community to grant a precautionary measure that allowed the reopening of said businesses. The Court rejected the request as it considered the Government’s decision to be sufficiently well-argued.838

262. However, the Superior Court of Justice of the Basque Country allowed reopening bars and restaurants which were closed by the regional Government through the adoption of the Decree No. 4/2021 of the Regional President.839 The specific provision that was appealed by several Associations of the hospitality industry refers to the mandate that all bars and restaurants remain closed in municipalities with more than 5,000 inhabitants when the cumulative incidence rate of positive cases of COVID-19 in the last 14 days is more than 500 per 100,000 inhabitants. In this case, the Court considered that the restrictions that had already been imposed on these businesses, such as ensuring that there is a distance of 1.5 meters between tables, that tables are not occupied by more than four people and an occupancy does not exceed 50%, had already proven sufficient to limit the spread of COVID-19.

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839 Decree No. 4/2021 of January 22, 2021, of the Lehendakari, on the third amendment of Decree No. 44/2020 of December 10, 2020, on the consolidation into a single text and updating of specific prevention measures, in the context of the declaration of the state of alarm, as a result of the evolution of the epidemiological situation and to contain the spread of infections caused by SARS-CoV-2. URL: https://www.legegunea.euskadi.eus/x59-preview/es/contenidos/decreto/bopv202100365/es_def/index.shtml (the date of access: March 20, 2021).
Night Mobility Restrictions

263. In January 2021, the Government of Castilla León decided to set night mobility restrictions starting at 20:00, which is not allowed by Royal Decree No. 926/2020 and Royal Decree No. 956/2020 (paras. 197-198 of Annex 4 to the Analytical Report). As previously indicated, according to Royal Decree 926/2020, a nationwide night mobility restriction is set, at least, from 23:00 until 6:00. However, regional Governments can decide to increase the time frames, moving up or pushing back the starting time one hour (to 22:00 or 00:00) and moving up or pushing back the starting time one hour (to 5:00 or 7:00).

264. Thus, when Castilla León decided to move up the starting time for the night mobility restrictions even further than what is allowed by the Royal Decree No. 926/2020, the Central Government decided to appeal this decision before the Spanish Supreme Court. The Spanish Government also requested a precautionary measure to halt the effectiveness of the decision made by the regional Government of Castilla León.

265. The Spanish Supreme Court granted the precautionary measure as it considered that, in principle, regional Governments did not have the power to move the time frame for night mobility restrictions beyond what is allowed by the Royal Decree No. 926/2020. The Court considered that, if it did not grant the precautionary measure and waited for its final decision, the Spanish Government’s appeal would be meaningless as the restriction to the fundamental right to free movement would have already taken place.840 A final judgment has not yet been issued.

Suspension of Electoral Processes

266. In September 2020, the Spanish Supreme Court banned the Catalan President from office as he refused to take down a pro-independence symbol from a public building.841 The Catalan Parliament tried to elect a new President but failed to do so. The Statute of Autonomy of Catalonia establishes that, if after two months of the first vote in Parliament to elect a president, no one is chosen, the Parliament shall be dissolved and new elections shall be called.

267. Hence, on December 21, 2020, the Catalan Parliament was dissolved and elections were called through the Decree No. 147/2020.842 The Spanish Electoral Law mandates that the latest date when an election can be celebrated is 54 days after it was called.843 However, on January 15, 2021, the acting President of Catalonia issued the Decree No. 1/2021 suspending the call for the election.844 This Decree established that, if conditions were appropriate, the election would take place on May 30, 2021. The reasons provided were that, in the context of the COVID-19 pandemic, it was not possible to ensure that political

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840 Spanish Supreme Court, Administrative Chamber, Resolution of February 16, 2021. URL: https://www.poderjudicial.es/search/AN/openDocument/62eba5ad70c96604/20210217 [the date of access: March 20, 2021].

841 Spanish Supreme Court, Criminal Chamber, Judgment No. 477/2020 of September 28, 2021. URL: https://www.poderjudicial.es/search/AN/openDocument/dec4236d1d386b09/20201006 [the date of access: March 20, 2021].


rights could be properly exercised nor that the rights to life and bodily integrity of those who went to vote or participated in the organization of the election.845

268. A series of civil society groups appealed the Decree through the special procedure for the protection of fundamental rights.

269. The Court declared the nullity of the Decree No. 1/2021. The Court considered that there was no force majeure and that the decision to suspend the election was not proportional as the appropriate safety measures could be set up when the election was carried out. The Court also considered that there was no legal instrument that foresaw the possibility of suspending electoral processes and the acting President of Catalonia, therefore, lacked jurisdiction in making this decision and passing the Decree by which the election was suspended.846

Claims Regarding Decisions That Result From the Application of General Measures

Penalties and Sanctions Imposed for Non-Compliance With COVID-19 Measures

270. One of the most controversial issues regarding the implementation of COVID-19 related measures has been the procedure followed and legal basis in order to impose sanctions for failing to comply with regulations adopted to protect individuals during the pandemic.

271. In particular, from September 2020 onwards, a series of judgments have quashed the penalties imposed on individuals for leaving their homes without justification during the time when all of Spain was in full lockdown (from March until May 2020).

272. In many cases, since there was no specific regulatory instrument foreseeing the offenses for which individuals could be charged for not complying with the mobility ban and other measures, law enforcement agents generically charged these citizens with the offense of disobeying authority.

273. The Royal Decree No. 463/2020, by which the state of alarm was declared, did not specify the sanctions that should be imposed for the infringement of the obligations established in the Decree.

274. The Decree referred to Article 10 of the 1981 Organic Act that regulates the states of alarm, emergency, and siege in Spain.847 It establishes that “failure to comply with or resistance to the orders of the competent authority in the state of alarm shall be punishable in accordance with what is provided for by law,” but does not make a specific remission to any law. Since Article 10 of the 1981 Organic Act does not specify what the applicable sanctions are, law enforcement agents based most of the sanctions on the provisions of the Organic Act No. 4/2015 for the protection of citizen security, which establishes that disobeying authorities constitutes a serious offense.848

845 Ibid.
275. However, courts decided that it was not possible to consider that an individual had incurred the offense of disobeying authority if there was no explicit mandate expressed by the agents, which the individual then disobeyed.849

Vaccination

276. In several cases, courts had to intervene in order to mandate retirement homes to administer the COVID-19 vaccination of elderly individuals who are incapacitated. The courts took into consideration the fact that the effects on public health cannot be considered in these cases because vaccination is voluntary. However, considering the limited capacity of the individuals that were to be vaccinated, the courts ordered the respective retirement homes to administer the vaccine.850

277. On February 26, 2021, the Government of Galicia modified the Health Law of Galicia providing for fines of up to EUR 60,000 for those who refuse to vaccinate without justification.851 On March 30, 2021, the Central Government filed an appeal to the Constitutional Court of Spain claiming unconstitutionality of the adopted law as it “imposes restrictions and limitations on fundamental rights that, as determined by Article 81 of the Spanish Constitution, are reserved to an Organic Law of the State.”852


850 Court of 1st Instance No. 17 of Seville, Resolution No. 47/2021 of January 15, 2021. URL: https://www.poderjudicial.es/search/AN/openDocument/e4d171bc79308a1e/20210208 (the date of access: March 15, 2021); Court of 1st Instance No. 6 of Santiago de Compostela, Resolution No. 55/2021 of January 19, 2021. URL: https://www.poderjudicial.es/search/AN/openDocument/c0db985ccceefc29/20210210 (the date of access: March 15, 2021); Court of 1st Instance No. 6 of Santiago de Compostela, Resolution No. 60/2021 of January 20, 2021. URL: https://www.poderjudicial.es/search/AN/openDocument/2f096421289bbd27/20210212 (the date of access: March 15, 2021).


V. Sweden

Summary

278. The Swedish response to the COVID-19 pandemic is grounded in personal responsibility and evidence-based advice and recommendations from the competent authorities, a strategy that has remained throughout the pandemic. Sweden has largely remained an open society and few repressive measures have been undertaken in relation to the population in order to enforce the strategy so far. However, the legislator has seen fit to temporarily grant the government more leeway to be able to take more repressive restrictions and shut-downs of certain spaces, if necessary.

279. The second wave of the pandemic in Sweden has led to new measures being taken in the form of new legislation, new measures regarding the spread of the virus, as well as measures in order to stimulate the strained economy in the many branches particularly hit by the pandemic (paras. 258, 262, 267 of Annex 3 to the Analytical Report).

280. A new temporary law, the Pandemic Act, was enacted in 2021 to give the government the powers necessary to close or restrict access to public spaces, such as airports, train stations, sports facilities, shopping malls, and others. The Pandemic Act makes it possible for the government, at least in theory, to essentially introduce a full lockdown of the society.

281. Most restrictions established through government ordinances have been extended and, in some cases, amended, for example, the travel bans issued by the government and the prohibition to visit nursing homes, conversion aid, and short-time work allowance (paras. 254–255, 267 of Annex 3 to the Analytical Report).

282. Several new ordinances regarding, for example, turnover-based support for sole traders and for trading and limited partnerships, which have suffered losses due to the pandemic have been issued by the government.

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

283. The COVID-19 pandemic is continuing to put a strain on several vital sectors of society, not only within health care but also in many industries, in particular, the hospitality and entertainment industries, transportation, and others. This has resulted in both new measures and the extensions of measures already in place at all levels of society. The Swedish Parliament, the Riksdag, has introduced new legislation to provide the government with temporary extraordinary powers to tackle the spread of the disease, but it is too early to predict what impact the new law will have due to ongoing vaccinations and the decrease of the spread of the disease.

2. Measures Taken in the Fight Against the COVID-19 Pandemic

284. A new temporary Pandemic Act (pandemilagen) was adopted in January 2021 and will be in force until September 2021.\textsuperscript{853} The legislative procedure was conducted according to the regular procedures for

law making according to the Constitution, including the procedure of referral, as well as the request for an opinion from the Council on Legislation.

285. The Pandemic Act gives the government the powers necessary to close or restrict access to public spaces, such as spaces for public transport, domestic air traffic, leisure and cultural activities, as well as trading places. This was the power it did not have before. The need for such powers in order to prevent the spread of the coronavirus has become evident during the pandemic. According to the law, the government can also delegate the power to municipalities to restrict certain areas within their geographical mandate, such as parks or bathing places. The scope of the Pandemic Act also covers certain spaces for private gatherings, such as a party room in an apartment building or a clubhouse.

286. The new Act also places responsibilities on owners of such spaces to take the measures necessary to prevent crowding. The Pandemic Act complements the CDA and the Public Order Act (1993:1617) and takes precedence over them. The law does not generally regulate disease control and prevention in dining places and similar venues, since there is already temporary legislation in this area (paras. 261–262 of Annex 3 to the Analytical Report).

Nevertheless, further restrictions can be imposed even regarding such businesses if it is necessary in regard to situations that fall outside of the scope of the legislation in place.

287. The law has been made temporary due to the fact that it can result in significant infringements concerning human rights. Consequently, the law can only be applied during the pandemic and if it is deemed necessary and the measures are proportionate. This also means that the law can be reenacted in case of future pandemics.

288. Breaches of the Pandemic Act can be punished with fines. The Act does not prescribe any specific amounts, but if such fines are introduced they need to be in accordance with the proportionality principle. At present, no such fines have been introduced.

289. The Pandemic Act has made some ordinances unnecessary, for example, an ordinance with a prohibition concerning holding public meetings and events. In such cases, the ordinances have been revoked.

290. The Pandemic Act makes it possible for the government, at least in theory, to essentially introduce a full lockdown.

291. The government has, with the support of the new law, issued an ordinance regarding special limitations for the prevention of the spread of COVID-19, the so-called Limitation Ordinance (begränsningsförordningen). Through the ordinance, the government has also delegated certain powers to the PHA, the County Administrative Boards, and certain municipalities concerning the issuance of

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856 Ibid. P. 23.

regulations and recommendations regarding the prevention of crowding in the named spaces. In the case of local regulations by municipalities, such measures are to be adopted in consultation with the Medical Officer of the Region and the PHA. Regulations issued with the support of the Pandemic Act, unless it concerns the expiration of a restriction or prohibition, will be scrutinized by the Parliament within a week of their introduction.

292. Temporary legislation that was introduced during the first wave of the pandemic, such as a law regulating disease control and prevention in dining places and similar venues, has been extended until May 2021 (paras. 261–262 of Annex 3 to the Analytical Report).\(^{858}\)

293. Most of the measures have been introduced through ordinances and recommendations in different fields that are presented below.

**The Hospitality Industry**

294. Temporary restrictions have been introduced regarding the hospitality industry which prohibits serving alcohol between 22:00 and 11:00,\(^{859}\) with the exception of homes for the elderly people and minibars in hotel rooms.\(^{860}\) The restrictions, as well as the span of the opening hours, have been extended several times.

295. According to the temporary Pandemic Act, the government has the power to shut down all dining places and similar venues if the epidemiological situation deteriorates, which may take precedence over these regulations.

**Transport**

296. In March 2020, Sweden introduced its first ban on non-essential travel to Sweden from countries outside the EU. The entry ban does not apply to citizens, or their families, of EU/EEA countries, the UK, Switzerland, Andorra, Monaco, San Marino, the Vatican or for travels to Sweden from the EU/EEA Area. The entry ban has been extended during the course of the pandemic on several occasions (para. 254 of Annex 3 to the Analytical Report).

297. In addition to this, further travel bans have been deemed necessary. In December 2020, the government issued an ordinance regarding a temporary travel ban concerning Denmark and the UK. In January 2021, a temporary travel ban regarding Norway was introduced. There are certain exceptions to the bans, for instance, regarding cross-border commuters, urgent family matters, facilitation of transports of goods, and asylum seekers. For most of the exceptions to be applicable, the person in need of entering the country will, according to the ordinance, have to submit proof of a negative COVID-19 test, which must

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\(^{859}\) During the period from December 24, 2020 to February 28, 2021, the prohibition was applied to the time period between 20:00 and 11:00. This has been extended into March 2021 as well. URL: [https://www.regeringen.se/pressmeddelanden/2021/02/forlangning-av-det-tillfalliga-alkoholforbudet](https://www.regeringen.se/pressmeddelanden/2021/02/forlangning-av-det-tillfalliga-alkoholforbudet) (the date of access: March 31, 2021).

\(^{860}\) Förordning (2020:956) om tillfälligt förbud mot servering av alkohol. URL: [https://www.regeringen.se/4909c0/contentassets/1ce208debe2b49dbdec04a1c857b6936/forslag-till-forordning-om-fortsatt-giltighet-.pdf](https://www.regeringen.se/4909c0/contentassets/1ce208debe2b49dbdec04a1c857b6936/forslag-till-forordning-om-fortsatt-giltighet-.pdf) (the date of access: March 31, 2021).
have been carried out within 72 hours before the entry into Sweden. The time frame for testing has later been changed to 48 hours.861

298. At the beginning of 2021, a general entry ban was introduced for foreign nationals who cannot present a negative test result for COVID-19 upon entry into Sweden, regardless of where they are traveling from.862 Restrictions regarding travel to Sweden from Denmark, Norway, and the UK are however still in force.

299. As for domestic transportation, including regional and local transportation, there is a recommendation by the PHA, which was issued on April 1, 2020,863 stating that individuals should not travel by public transport, train, or airplane, but instead travel by foot, bike, or car.864

300. If traveling by public transport is necessary, the PHA has issued recommendations on January 7, 2021, concerning the use of face masks by travelers from the age of 13 during rush hours, which has later been changed to be applicable to all times of travel.865

301. Further measures regarding public transportation and domestic air traffic can be taken to prevent the spread of the disease in accordance with the temporary Pandemic Act. This comprises not only restrictions in regard to limitations on the number of persons able to travel at the same time but also temporary prohibitions for any such transportation.

Care for Elderly People

302. Early on during the pandemic, the government issued an ordinance that bans visits to nursing homes.866 This ordinance has been temporarily paused and later reinstated. At present, the government


865 The Public Health Agency of Sweden’s regulations and general guidelines relating to everyone’s responsibility to prevent COVID-19 infections.

has extended the ordinance to May 31 through a new ordinance of February 11, 2021 (para. 255 of Annex 3 to the Analytical Report). 867

303. The Pandemic Act also adds other possible measures intended to prevent the spread of COVID-19 in nursing homes or other similar living spaces.

2.1. Containment Measures Regarding Population

304. During the “second wave”, the government has issued a ban on gatherings of more than 8 people. 868 There is however some exception to funerals, where 20 people are allowed to gather. In some cases, as many as 300 people can gather if the organizer is prepared to take certain measures to prevent crowding and ensuring appropriate social distancing and other necessary measures. 869 Initially, the government banned public gatherings of 500 people (para. 258 of Annex 3 to the Analytical Report). This was changed to 50 people during the course of the pandemic. 870 The competent authorities, such as the PHA, have issued several recommendations on how to implement the ban. 872

305. The Pandemic Act was introduced to reduce crowding as it has been a central issue for the Swedish government during the COVID-19 pandemic. Prior to this law, a temporary law regarding the hospitality industry (para. 294 of Annex 4 to the Analytical Report and para. 259 of Annex 3 to the Analytical Report) was enacted, creating legal obligations for owners of restaurants, coffee shops, bars, canteens, dining places, and similar venues, to provide conditions for social distancing, organize entry lines, as well as to facilitate hand washing and the use of hand sanitizers and so on. 873

2.2. Support Measures for Industrial and Non-Productive Sectors

306. During the fall of 2020, the government introduced turnover-based support for sole traders and for trading and limited partnerships that have suffered losses due to the pandemic. Turnover support can be received retroactively for periods ranging from March 2020. Businesses eligible to turnover support need to have a certain minimum level of turnover loss (30–40% depending on the period), the relevant


870 Ordinance on a prohibition against holding public gatherings and events. URL: https://www.government.se/articles/2020/03/ordinance-on-a-prohibition-against-holding-public-gatherings-and-events (the date of access: March 31, 2021).


losses need to be related to the COVID-19 pandemic, and the owners must use all necessary means to get coverage via insurance companies, damages and so on.\textsuperscript{874}

307. In the wake of the introduction of the Pandemic Act, which made it possible for the government to temporarily shut down certain activities, the government proposed an ordinance ensuring support for businesses that are forced to close down (nedstängningsstöd). The ordinance will apply retroactively from the date of entry into force of the Pandemic Act.\textsuperscript{875} At present, the government is awaiting a decision from the EU Commission regarding the compatibility with the provisions for state aid in the Treaty of the Functioning of the European Union. The ordinance is expected to enter into force at the beginning of April 2021.\textsuperscript{876}

2.3. Support Measures for Population

308. The Swedish Work Environment Authority and the PHA have been delegated the power to introduce regulations regarding preventive measures due to the spread of COVID-19 in workplaces.

309. Furthermore, the government gave the task of increasing its control measures in workplaces in high-risk branches concerning the spread of the COVID-19 in order to ensure that employers are taking necessary precautions needed and providing employees with the protective equipment that they need to the Swedish Work Environment Authority.\textsuperscript{877}

2.4. Evaluation Measures

310. Evaluation measures have been taken fairly early during the pandemic. The general idea of the Government is that the Swedish response has to be continuously evaluated by an audit commission (Coronakommissionen), which was appointed on June 30, 2020. The commission is comprised of different experts and scientists from different fields with the mission to scrutinize the overall response to the COVID-19 pandemic. The commission has a broad mandate to investigate and evaluate the measures taken by the government, government authorities, regions, and municipalities. The Commission will also make international comparisons in relation to the Swedish measures (para. 262 of Annex 3 to the Analytical Report).\textsuperscript{878}


\textsuperscript{876} Finansdepartementet remitterar förslaget till nedstängningsstöd. URL: https://www.regeringen.se/pressmeddelanden/2021/03/finansdepartementet-remitterar-forslaget-till-nedstangningsstod/ [the date of access: March 31, 2021].

\textsuperscript{877} Fler kontroller av riskutsatta arbetsplatser i pandemin. URL: https://www.regeringen.se/pressmeddelanden/2021/01/fler-kontroller-av-riskutsatta-arbetsplatser-i-pandemin/ [the date of access: March 31, 2021].

\textsuperscript{878} Dir. 2020:74. Utvärdering av åtgärderna för att hantera utbrotten av virus som orsakar sjukdomen COVID-19. URL: https://www.regeringskansliet.se/49f46d/contentassets/593c32df141144d9c81ebe9c96e26e41/dir2020_74.pdf [the date of access: March 31, 2021].
The Corona Commission published its first investigation report at the end of 2020. The report concerned the care of elderly people. It concluded that the strategy of protecting the elderly has failed, being ill-prepared and ill-equipped. The situation was caused by several deficiencies of a structural nature, relating, for example, to the organization of the care for elderly people and the regulatory framework. For moving forward there is a need for higher staffing levels, greater expertise, and reasonable working conditions. The responsibility for these flaws rests ultimately with the government, but also with previous governments since the named shortcomings were known long before the outbreak of the pandemic. Following the investigation of the Corona Commission, the government has initiated a new investigation into a law on the care of the elderly that will deal with these problems.

The Commission is currently working on its second report which is expected to be presented toward the end of October 2021. The investigative work includes evaluation of the health care system’s abilities to handle the outbreak of COVID-19, testing, contact tracing, vaccination measures, cooperation between the public and the private sector, international cooperation, digitalization efforts, and so on.

There have also been other evaluation investigations carried out by Swedish authorities, commissioned by the government, such as by the Swedish Post and Telecom Authority. Their report evaluated the digital transformation of the society due to the pandemic, but also made proposals for the future government’s action in 36 areas involving 66 possible measures. One of the overall takeaways of the report is to join forces in further efforts to promote digital participation.

3. Court Practice With Respect to the COVID-19 Pandemic

At the moment, there is no public information concerning any claims lodged with the courts on the containment measures taken to mitigate the COVID-19 crisis. This is certainly linked to the fact that the Swedish response to the pandemic has been built around information and recommendations instead of legally binding provisions.

The introduction of the pandemic law might change this situation, but it is also very recent. To date, it is unclear to what extent it will be applied, especially because of ongoing vaccinations. However, the spread has increased, which means that the law can be used to carry out certain shutdowns that might be contested in court in the future. The fact that businesses will probably receive economic support if they are shutdown, may decrease the inclination to contest such measures in court.

Furthermore, there are no reported court cases in regard to the temporary law that was introduced to prevent crowding in restaurants, bars, dining places, and similar venues, creating legal

[880] Ibid.
[881] Dir. 2020:142. En äldreomsorgslag. URL: https://www.regeringen.se/4b045d/contentassets/d293ade08bf04354af244b335b9a4795/dir2020_142.pdf [the date of access: March 31, 2021].
obligations for owners of such businesses to prevent COVID-19 from spreading. For this purpose, supervision is carried out by the municipalities as part of their mission regarding disease prevention and control and, if necessary, with police assistance. Business owners are not required to pay a fee for the supervision, which is normally required in regard to this type of control, due to the strained economic situation for the restaurant industry in general. The shutdowns orders concerning restaurants that act in breach of the law have so far been limited in time to just a couple of days.

317. Consequently, the reason that there are no reported court cases is probably due to the fact that the time periods for shutdown are very short, the businesses are not forced to pay control fees, and taking a case to a court to contest such limited repressive measures can be costly.

318. At the end of March 2021, it was reported that around 5,000 appeals were filed in just a couple of days regarding decisions of the Swedish Agency for Economic and Regional Growth (Tillväxtverket) on conversion aid and short-time work allowance to the Administrative County Courts. This is due to a delay in the handling of the obligatory re-examination of appealed decisions by the Agency. The Agency has thus far made 80,000 decisions related to conversion aid and short-time work allowance.
VI. The United Kingdom

Summary

319. From September 2020 and until March 2021, there was no radical change of approach in how the UK uses the law to regulate the COVID-19 pandemic. The same approach continues to apply, which is that the Government constantly makes incremental changes in the law in response to new scientific information, changes in the prevalence of coronavirus in the country, and the need or perceived need for political action. In overview, the higher the rate of transmission in the country is, the stricter the containment measures adopted by the Government are. The biggest public health change was the beginning of what appears to be a very successful roll-out of vaccines in the UK. This has led all 4 nations within the UK to produce what is termed a “road map” out of lockdown — a plan setting out when the containment measures will be gradually relaxed.

320. There were cases that challenged the legality of the entirety of the coronavirus containment measures, or else challenged one particular aspect of them. The courts exercised deference to the decisions of the Government during the crisis. Provided that Executive action was broadly within the spectrum of reasonable behavior, the courts did not rule it unlawful. The courts used the traditional judicial criteria that official action must be lawful, rational, necessary, and proportionate and applied these to the pandemic. The Government has been required to prove its case, rather than simply making an assertion of legality, but the courts have given a degree of latitude to the Government. Only in one case did the courts rule that a piece of secondary legislation was unlawful. The courts will not automatically rule in favor of the Government, but so far they generally find it to be acting lawfully.

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

Legislative Framework

Primary Legislation

321. Since September 2020, there has been little change in the strategic approach taken in the use of primary legislation to regulate the pandemic.

322. The most important primary legislation for regulating the pandemic remains the Public Health Act. The vast majority of the containment measures have been enacted using the powers set out in this Act. This Act applies to England and Wales only. But analogous legislation also exists for Northern Ireland (the Public Health Act (Northern Ireland) 1967) and for Scotland (the Coronavirus Act 2020, which contains a Schedule setting out the same powers for Scotland as for England, Wales, and Northern Ireland). There are no differences of substance between these 4 pieces of primary legislation and each of the 4 countries in the UK continues to use these pieces of primary legislation in the same way (paras. 283–314 of Annex 3 to the Analytical Report).

323. There are then other pieces of primary legislation which are also used to regulate the pandemic: the Coronavirus Act 2020, the Coronavirus (Scotland) Act 2020, the Coronavirus Scotland (No. 2) Act 2020. They have remained largely unchanged since September 2020. These statutes all contain built-in review provisions every 6 months. The last 6-month review in Parliament took place at the end of March 2021.

324. Concluding this consideration of primary legislation, there are many other pre-existing and non-emergency statutes that have been used to make secondary legislation during the pandemic. These are “ordinary” statutes in the sense that they existed before the pandemic, and they are non-emergency statutes in the sense that they were not enacted in response to an emergency. For example, the ordinary
Acts of Parliament which regulate the payment of social security benefits to citizens have been used to make regulations that increase payments during the pandemic. In total, the powers contained in 118 different Acts of Parliament have been used to make secondary legislation on coronavirus. 887

325. Overall, there has been very little change since September 2020 in terms of the primary legislation used to regulate the pandemic. In terms of presentation of, and access to, this primary legislation, there have been some modest improvements of the official Government website on legislation. 888 It is now easier to see the general framework of the legislation for each of the 4 nations of the UK and the key pieces of coronavirus legislation.

Secondary Legislation

326. Since September 2020, there has been little change in the strategic use of secondary legislation to regulate the pandemic. There has been a significant change in the volume of secondary legislation and in the content of that legislation, but the changes in the content have been incremental rather than radical.

327. As of March 2021, the Government has laid a total of 404 coronavirus-related pieces of secondary legislation before the Westminster Parliament. The Northern Ireland Government has laid 179 coronavirus-related pieces of secondary legislation before the Northern Ireland Assembly. The Scottish Government has laid 150 before the Scottish Parliament and the Welsh Government has laid 133. 889 There may be a few additional pieces of secondary legislation that have not been counted, but in general, the Government’s figures are accurate.

328. In terms of the change since September 2020, the rate of production of coronavirus regulations is roughly the same as of March 2021. 890

329. There is a direct correlation between the severity of the measures imposed by secondary legislation and the rate of transmission of coronavirus in the country. With the transmission rates being relatively low over summer and the beginning of fall 2020, the number of restrictions in the containment measures was also relatively low. When transmission rates began to rise again in fall and winter 2020, the containment measures increased. As of March 2021, the containment measures remain at their highest levels, but the plan is that they will be relaxed when transmission rates decrease as the effects of vaccination are felt.

330. Changes in secondary legislation since September 2020 have been rapid and incremental. This means that small changes are made to legislation on a regular basis. For example, the original regulation of travel to the UK required all travelers to give information to the authorities on their arrival in the UK (para. 316 of Annex 3 to the Analytical Report). And as certain countries increased rates of coronavirus,

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887 For a full consideration of the primary legislation used to make secondary legislation, see the Coronavirus Statutory Instruments Dashboard, updated March 2021, as prepared by the Hansard Society. URL: https://www.hansardsociety.org.uk/publications/data/coronavirus-statutory-instruments-dashboard [the date of access: March 31, 2021].

888 The official government website on legislation. URL: https://www.legislation.gov.uk/ [the date of access: March 31, 2021].

889 Ibid. The methodology for counting pieces of secondary legislation is that the word “coronavirus” appears in the title of the legislation.

890 Detailed data on the number and type of secondary legislation enacted can be seen on the coronavirus dashboard of the Hansard Society. URL: https://www.hansardsociety.org.uk/publications/data/coronavirus-statutory-instruments-dashboard [the date of access: March 31, 2021].
additional requirements were added to arrivals from those countries, for example, self-isolation for travelers upon arrival in the UK, or providing evidence that they had a negative test for coronavirus. 891

331. In terms of the procedure for making secondary legislation on coronavirus (para. 295 of Annex 3 to the Analytical Report), there has been little change. There continues to be widespread use of the term “urgent procedure”, which means that legislation is made and comes into force before it has been voted upon by Parliament. This goes against the standard practice where secondary legislation does not come into force until Parliament has first agreed to it. Although these procedures have been used and criticized since the start of the pandemic, the criticism has grown. In September 2020, the Bingham Centre for the Rule of Law argued against the continued use of this procedure, stating that:

“Prior parliamentary approval helps with many things. It can correct mistakes before they are made. It can help to disseminate the content of these rules more widely. It can provide a proper forum for debate on the delicate balance between public health, civil liberties and the economy. And it can give greater democratic legitimacy to the rules. Furthermore, legislation needs to be accessible to those who are obliged to follow it. This requires publication of lockdown regulations well in advance of them coming into force.” 892

332. The pressure against this use of the urgent procedure came to a head in September 2020 when the “Brady amendment” was introduced into Parliament. The amendment (named after the MP Graham Brady who introduced it) would have required the Government to first obtain the consent of Parliament before any coronavirus regulations came into effect. 893 For various procedural reasons, the actual “Brady amendment” was not voted on. However, the Government did make a concession and undertook that in the future, no coronavirus rules would come into effect unless Parliament had first voted on them, except in true cases of emergency. In practice, although the Government waited on some occasions for Parliament to vote before bringing new coronavirus regulations into effect, it did not do this on all occasions.

333. In terms of differences in the content of the coronavirus legislation between the 4 nations of the UK, it remains largely the same in March 2021 as it was in September 2020. That is to say, each jurisdiction does broadly the same thing (see the Table in para. 310 of Annex 3 to the Analytical Report). There are some minor differences in the precise detail of the lockdown rules, but the overall approach is the same. The only larger differences are that different jurisdictions sometimes relax or tighten restrictions at different rates.

891 See, e.g., the Health Protection (Coronavirus, International Travel) (England) Regulations 2020, as revised. URL: https://www.legislation.gov.uk/uksi/2020/568/contents [the date of access: March 31, 2021]. These particular Regulations have been amended on at least 30 separate occasions.


2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

Education

334. Schools were closed, but they are now in the process of re-opening. Schools in England re-opened on March 8, 2021. Some schools in Wales have re-opened recently, while the rest are re-opening in April. Some schools in Northern Ireland re-opened in March, with the rest planned to re-open in April. Some schools in Scotland have already re-opened, and the rest should re-open by the end of April.

2.2. Containment Measures Regarding Industrial, Non-Productive Sectors and Population

335. Containment measures were increased throughout the UK in December 2020 across all sectors. This meant that all shops (except for essential businesses) and all entertainment venues were shut down. People were not allowed to leave their homes except for essential reasons. No mixing of different households inside homes is permitted unless there is a compelling health or social reason.

336. The containment measures were brought in via secondary legislation. The current iterations of these rules for each of the 4 countries in the UK are:

- the Health Protection (Coronavirus, Restrictions) (All Tiers) England Regulations 2020;
- the Health Protection (Coronavirus Restrictions) (No. 5) Wales Regulations 2020;
- the Health Protection (Coronavirus) (Restrictions and Requirements) (Local Levels) Scotland Regulations 2020;
- the Health Protection (Coronavirus, Restrictions) (No. 2) Regulations (Northern Ireland) 2020.

337. Originally there was an attempt to have different restrictions in different regions of each country, with higher restrictions in places with higher coronavirus rates. This was the “tier” system. In England, there were three different tiers, and different parts of England were placed in different tiers. Scotland had five tiers. Since December 2020 and the intensification of the containment measures, most of the UK has been in the highest tier, meaning that there has been essentially a nationwide full lockdown.

338. There are also specific containment measures requiring citizens to wear facemasks in public places. The current iterations of these rules for each of the 4 countries in the UK are:

- the Health Protection (Coronavirus, Wearing of Face Coverings in a Relevant Place) (England) Regulations 2020;

894 All these Regulations can be found at the official government website on legislation. URL: https://www.legislation.gov.uk/coronavirus [the date of access: March 31, 2021].

895 These Regulations can all be accessed via the official government website on legislation. URL: https://www.legislation.gov.uk/coronavirus [the date of access: March 31, 2021].
• the Health Protection (Coronavirus, Wearing of Face Coverings) Regulations (Northern Ireland) 2020;
• face coverings for Wales and Scotland are contained in the general Health Protection Regulations referred to above.

339. All the above Regulations are subject to frequent minor and incremental change. They have been updated since September 2020 (para. 317 of Annex 3 to the Analytical Report).

Measures Related to Travel to the United Kingdom

340. Although there were some restrictions on travel to the UK before September 2020 (para. 316 of Annex 3 to the Analytical Report), these restrictions have been considerably enhanced and extended.

341. Each nation in the UK has taken a slightly different approach, but in broad terms, there are the following requirements:

• entry is prohibited from “red list” countries with an exception for UK nationals;
• information requirement — people arriving in the UK must provide the authorities with information about where they are traveling from, how they traveled, and where they are staying in the UK;
• negative test requirement — people arriving in the UK must have evidence of a negative test for coronavirus;
• testing requirement — people arriving in the UK must book a travel test package;

342. These rules vary depending on the country that the person is arriving from. The higher coronavirus rates in the country the person is coming from, the greater the restrictions (countries are categorized in terms of risk as being “red list”, “amber list”, or “green list”). There are a large number of exemptions, for example, for diplomats, elite sportspersons, and aircraft crew.

343. These Regulations are being constantly amended, for example, by adding new restrictions, varying exemptions, or re-categorizing countries into a different list.
2.3. Support Measures for Industrial, Non-Productive Sectors and Population

344. In broad terms, support measures to individuals and businesses have continued since September 2020. There has been increasing political pressure to reduce the support given by the Government to the public due to the strain on public finances. But by and large financial support continues to be given to businesses and individuals. It includes furlough payments from the Government to individuals who are temporarily not working, additional payments to those on social security benefits, and payments to those who have had to self-isolate because of coronavirus and cannot work from home [para. 345 of Annex 3 to the Analytical Report].

The Roadmap

345. The Roadmap is the name given to the plan for reducing containment measures. Each part of the UK has a slightly different roadmap. The following is the proposed Roadmap for England. The lifting of restrictions is not guaranteed, and if transmission rates increase, the restrictions will not be lifted.

Stage 1:
- schools are open;
- two people from different households can meet outside;
- some visitors are allowed to care homes for the elderly;
- from the end of March, up to 6 people can meet outside, some outdoor sports can resume.

Stage 2:
- all shops are allowed to open;
- restaurants and pubs can serve food and alcohol outdoors;
- sports centers are open.

Stage 3:
- up to 30 people can meet outdoors and up to 6 people can meet indoors;
- restaurants and pubs can serve indoors;
- indoor and outdoor entertainment venues are open;
- hotels are open;
- all indoor sports can open.

897 See more details on the Government’s official coronavirus webpage. URL: www.gov.uk/coronavirus (the date of access: March 31, 2021).

Stage 4:

- end of lockdown.

3. Court Practice With Respect to the COVID-19 Pandemic

3.1. Cases Challenging the Legality of the Coronavirus Containment Measures

_Dolan v. Secretary of State for Health And Social Care_999

346. This was a decision of the Court of Appeal for England and Wales, which is the 2nd highest tier of court in the UK. The argument was that lockdown regulations (i.e. the main containment measures) were unlawful as they were _ultra vires_, meaning that they were outside the power contained in the Public Health Act. If the case had succeeded, many containment measures would have been ruled unlawful. The Court of Appeal ruled that the lockdown regulations were lawful and within the power of the Secretary of State to make. The court also ruled that there was no breach of human rights law in the regulations.

_Francis v. The Secretary of State for Health And Social Care_100

347. This was a decision of the Divisional Court for England and Wales. As with _Dolan_ (para. 346 of Annex 4 to the Analytical Report), the argument was that the containment measures regulations, so far as they relate to the obligation to self-isolate, were unlawful. The court ruled that the regulations were lawful, having considered the text of the regulations and the purpose for which they were made. The court also ruled that the regulations were a proportionate interference with the rights of the individual.

_Hussain v. Secretary of State for Health & Social Care [Rev 1]_101

348. This was a decision of the Administrative Court for England and Wales. The argument was that the prohibition or restriction on the opening of places of worship (a mosque in this case) was unlawful. On an interim basis, the court ruled that the regulations were lawful and did not breach human rights law. Again, on an interim basis, the court ruled that the measures were proportionate. This was only an interim judgment, and the case has permission to proceed to a full trial.

3.2. Cases Relating to Other Coronavirus Regulations

349. Cases have also been brought challenging the lawfulness of other legislation (other than the containment measures) that has been enacted in response to the pandemic. The cases have sought to interpret the meaning of some of these regulations.

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**3.3. Other Cases Related to the Pandemic**

*Christian Concern v. Secretary of State for Health And Social Care* 906

354. This was a decision of the Court of Appeal for England and Wales. It challenged the temporary authorization, made as a response to the pandemic, that allowed certain types of abortions to take place at
the home of a pregnant woman. The argument was based upon what was, and what was not contained in the Coronavirus Act 2020. The court held that the temporary authorization was lawful because it was within the powers of the Government to do so in response to the pandemic.

**Financial Conduct Authority v. Arch Insurance** 907

355. This is a decision of the UK Supreme Court — the highest court in the UK. It was on the meaning of the business interruption test and whether if a person was insured for “business interruption” they could make a valid insurance claim if the interruption was caused by coronavirus. Although the answer depends on the specifics of individual insurance policies, in broad terms business interruption caused by coronavirus satisfied the business interruption test and consequently, those claims are covered by the insurance policy.

**Practice Directions and Court Guidance**

356. There have been many practice directions and guidance notes issued by all courts throughout the UK stating the special measures that will apply to court proceedings during the pandemic. 908 These allow for greater use of video and audio proceedings, as well as changes to the protocol for court sittings.

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VII. The USA

Summary

357. Annex 3 to the Analytical Report covers the general legal and regulatory framework for emergencies and pandemics and details the specific measures taken by the United States in the fight against COVID-19 at both the federal and state level (paras. 346–392 of Annex 3 to the Analytical Report).

358. Annex 3 to the Analytical Report covers the state of the COVID-19 crisis from the beginning of the pandemic through the end of August 2020 (paras. 365–392 of Annex 3 to the Analytical Report). After an initial surge of cases in late April and a summer surge of cases following the partial reopening of businesses, the deadliest wave of COVID-19 cases in the United States began in late October 2020 and carried on through the winter. This third surge prompted states to postpone reopening plans, continue remote learning for students, and impose new restrictions to slow outbreaks, especially in new hotspot locations in southern, southwestern, and midwestern states. While the United States faced record-high daily death rates during December, hope emerged as the Food & Drug Administration approved the authorization of two COVID-19 vaccines for public emergency use. The Pfizer vaccine was approved for emergency use on December 11, 2020, and the Moderna vaccine was approved for emergency use a week later on December 18, 2020. With the support of the federal government to ensure the necessary supply of the vaccines for all Americans, the responsibility of vaccine deployment was left up to the states, so the processes varied from state to state, though all states established tiered plans prioritizing those most at risk and essential frontline workers.

359. The change in presidential administrations at the beginning of 2021 brought a sea of change in the level of federal government involvement in mitigating the spread of COVID-19 and distributing vaccines. The Biden Administration immediately created the position of a COVID-19 response coordinator to orchestrate the federal response and a COVID-19 Health Equity Task Force within the Department of Health and Human Services to provide recommendations on mitigating health inequities caused by the pandemic. President Biden set an ambitious goal to vaccinate 100 million Americans during the first 100 days of his presidency and was on track to surpass that goal by the end of March. Even with an accelerated vaccination rollout by the new presidential administration, by February 1, 2021, the Centers for

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Disease Control and Prevention reported 442,317 deaths attributable to COVID-19\(^{912}\) in the United States, higher than any other nation.\(^{913}\)

360. While the end of February saw a slight decrease in case numbers in the United States, variant strains of the coronavirus began to spread across the country. On February 27, 2021, the Food & Drug Administration authorized yet another vaccine for emergency use, the Johnson & Johnson vaccine, which, unlike the Pfizer and Moderna vaccines, only requires one dose for full efficacy.\(^{914}\) Despite the decreasing number of hospitalizations by the end of February, scientists continue to warn against states reopening too soon with the race between vaccinations and variant strains from the United Kingdom, Brazil, and South Africa spreading across the country.\(^{915}\)

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

1.1. Emergency Laws and Regulations

361. Annex 3 to the Analytical Report covers the general emergency laws of the United States (paras. 348–364 of Annex 3 to the Analytical Report). There have been no changes to procedures on emergencies or new authorities granted at the federal level since September 2020. Several states are in the process of restructuring their respective emergency powers and processes, mostly spurred by legislative challenges to the executive’s use of emergency powers during COVID-19, as discussed below.

1.2. Non-Judicial Challenges to Public Health Authority

362. State governors and their respective public health officials operated with seemingly broad authority during the initial COVID-19 outbreak in the spring of 2020. Individual state emergency powers and procedures vary from state to state but are typically proscribed in state law or the state’s Constitution (paras. 360–362 of Annex 3 to the Analytical Report). The events of 2020 caused most states to re-examine their emergency powers and procedures, with at least 30 states introducing measures to limit governors’ or health board’s powers during the ongoing pandemic or future public health emergencies.\(^{916}\) These measures were adopted by ten states: Arkansas, Colorado, Hawaii, Kansas, Kentucky, Michigan, Mississippi, Oklahoma, Pennsylvania, and Utah.\(^{917}\) The measures served as a legislative check on the executive power within the state during a time of emergency. For example, Utah and Kansas both enacted

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\(^{917}\) Ibid.
laws adding notification requirements and legislative approval before the state governor can declare a state of emergency.918

363. This trend continued into 2021, with around 32 state legislatures considering bills or resolutions that would limit the emergency power or spending of the executive branch or even local authorities within their state during a public health emergency.919 For example, a Tennessee House bill prohibits local governments from classifying businesses as essential.920 In December, the American Legislative Exchange Council, a nonpartisan membership organization of state legislators, published the Emergency Power Limitation Act, a model law for states to follow to limit the public health authority of state or local officials.921

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

364. At the federal level, President Trump’s original declaration on March 13, 2020, of an emergency under the authority of the National Emergencies Act remains in effect (para. 366 of Annex 3 to the Analytical Report).922 The declaration was extended by President Biden on February 24, 2021.923 This declaration will stay in effect for at least one year unless terminated by a joint resolution of Congress or a proclamation by the President. The President may again choose to renew the declaration as well, by providing notice to Congress and publishing the renewed proclamation in the Federal Register (para. 359 of Annex 3 to the Analytical Report).924 Likewise, the Public Health Emergency originally declared on January 31, 2020, by the Secretary of Health and Human Services under the authority of the Public Health Service Act (para. 365 of Annex 3 to the Analytical Report) remains in effect after being renewed on October 2, 2020, and most recently on January 7, 2021.925 The Public Health Emergency will remain in effect

918 Ibid.

919 Ibid.


for at least another 90 days until it is either renewed or terminated by the Secretary of Health and Human Services.926

365. At the state level, all state declarations of emergency (para. 369 of Annex 3 to the Analytical Report) remain in effect except for the declaration by the state of Alaska, which expired on February 14, 2021.927

366. Despite the loosening of most travel restrictions among states over the late summer, the United States borders with Canada and Mexico still remain closed to non-essential travel (para. 370 of Annex 3 to the Analytical Report).928 With the sharp rise in cases beginning in late October and continuing throughout the winter, the CDC issued travel advisories and strongly urged against holiday gatherings and travel, but the Trump Administration did not implement any new federal mandates or lockdowns.929

367. This changed with the Biden Administration, which promptly issued an Executive Order on international travel shortly after the inauguration. This Order required travelers entering the United States from another country to provide proof of a recent negative test prior to entry and further required compliance with all CDC guidelines, including self-quarantine upon arrival.930 President Biden also reinstated travel restrictions for non-United States citizens traveling from Brazil, South Africa, and much of Europe due to the spread of the variant strains of the coronavirus.931

368. Several states still have travel restrictions in place in 2021, requiring travelers from states with high positivity rates to quarantine upon arrival, though most of these states will accept a negative test result instead of the mandated quarantine (para. 371 of Annex 3 to the Analytical Report).932

369. In the fall, most schools in the United States began the new academic year operating remotely or with a combination of in-person and remote learning. With many calling for the full reopening of schools to mitigate the negative impact of remote learning on students, President Biden issued an Executive Order supporting the reopening and continuing operation of schools and early childhood education for in-person learning.933 Yet school operations continue to vary greatly from state to state, with many schools attempting

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926 42 U.S.C. § 247d.
to reopen with more testing and teachers receiving vaccinations by the end of February 2021 (para. 374 of Annex 3 to the Analytical Report).

2.2. Containment Measures Regarding Industrial and Non-Productive Sector

Industrial Sector

370. In terms of containment measures in the industrial sector, the Essential Critical Infrastructure Workers Guidance, which was designed to help essential work safely continue for ongoing critical infrastructure operations and originally released on March 18, 2020 (para. 375 of Annex 3 to the Analytical Report), was updated on December 16, 2020, to support prioritization decisions related to COVID-19 vaccines. \(^{934}\) Specifically, these updates identify the essential workers, such as healthcare providers and first responders, who require specialized risk management strategies so that they can work safely and receive priority under their respective state’s vaccination plans. \(^{935}\)

Non-Productive Sector

371. Containment measures in the non-productive sector continue to largely vary from state to state (paras. 377–379 of Annex 3 to the Analytical Report), though by February 2021 most states were tending to relax containment measures on a regional basis as the case numbers trended downwards. Most states are now allowing elective medical procedures to proceed and are continuing to lift capacity restrictions on restaurants. At correctional facilities, after every state halted in-person visitation during the spring of 2020, ten states have since resumed visitation in state prisons. \(^{936}\)

2.3. Containment Measures Regarding Population

372. Most containment measures aimed at the general population occurred at the state level (paras. 380–384 of Annex 3 to the Analytical Report). After September 2020, gathering bans tended to loosen up, with some states beginning to allow a limited number of fans at sporting events.

373. Almost all state stay-at-home orders were lifted by the late summer with the most recent stay-at-home order coming to an end in the state of California. \(^{937}\) New Mexico temporarily re-enacted its statewide

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\(^{937}\) Ibid.
order closing all in-person services for non-essential activities for two weeks in November 2020 but then began reopening county by county in January 2021.938

374. After partially reopening non-essential businesses on a regional basis in most states over the summer, states began issuing reclosure orders in November with a sharp rise in cases. Nine states reclosed restaurants, 12 states reclosed bars, and seven states reclosed gyms.939 By February 2021, all states seemed to be at some level of reopening for non-essential businesses and restaurants statewide, to varying degrees. States are enforcing capacity limits and face mask requirements on patrons and restricting restaurants to outdoor dining only in some localities. Gyms, movie theaters, and bars remain closed in several states, though these facilities began to open up more widely across the country towards the end of February.

375. By September 2020, especially as they began to partially reopen, most states had some sort of face mask requirement, whether for employees of restaurants and businesses, patrons within a restaurant or business, or all people when out in public. In late January, the Biden Administration issued an Executive Order requiring mask-wearing on federal property and in all forms of public transportation.940 This impacted airports, commercial aircraft, trains, ferries, and busses. In 2020, 38 states had some type of public face mask mandate941 with five states ending their face mask mandates in 2021.942

2.4. Support Measures for Industrial and Non-Productive Sectors

Industrial Sector

376. Under the authority of the Defense Production Act [para. 356 of Annex 3 to the Analytical Report], President Biden issued an Executive Order supporting a sustainable public health supply chain and increasing supply for pandemic response.943 This order requires executive branch leaders to assess the availability of critical materials, treatments, and supplies and enabled them to utilize the authority of the Defense Production Act to fill any identified shortfalls.944
President Biden issued another Executive Order on worker health and safety, requiring the issuance of science-based guidance to help keep workers safe from COVID-19 exposure. The order required a review of the Occupational Safety and Health Administration pandemic standards, launching a national program to focus on enforcement efforts related to COVID-19 violations in the workplace.

Non-Productive Sector

The Coronavirus Response and Relief Supplemental Appropriations Act of 2021, a second stimulus COVID-19 relief measure, was approved by Congress on December 21, 2020, and signed into law on December 27, 2020, by President Trump. It included a second round of funding for small business loans through the Paycheck Protection Program initiated by the first stimulus relief measure earlier in 2020 (paras. 388–392 of Annex 3 to the Analytical Report).

Through February, Congress and President Biden worked to get a third stimulus COVID-19 measure passed, which would provide more funding for the Paycheck Protection Program, including an expansion of eligibility criteria for the Program, and would support the creation of a new grant program for restaurants and bars.

2.5. Support Measures for Population

After an extension in August through December 31, 2020, the student loan forgiveness measure was extended by the Trump Administration on December 4, 2020, through January 31, 2021. This measure was further extended by the Biden Administration through a directive issued on January 20, 2021, through at least September 30, 2021.

The Coronavirus Response and Relief Supplemental Appropriations Act of 2021 was signed into law on December 27, 2020, by President Trump and featured direct payments of USD 600 to U.S. citizens.
The third stimulus COVID-19 relief bill would feature direct payments of USD 1,400 to U.S. citizens and would expand unemployment benefits.\textsuperscript{953}

3. Court Practice With Respect to the COVID-19 Pandemic

Summary

382. The United States is seeing numerous court challenges against COVID-19 measures and challenges to emergency authority in general, with many lawsuits brought at both the federal court and state court level. Most lawsuits tend to be challenging the emergency authority of the state governor, especially when it relates to the prolonged closure of businesses without legislative approval. Other lawsuits challenge restrictions on businesses as a violation of Constitutional freedoms. Aside from a few state decisions described below, these lawsuits have not been overly successful, with most courts deferring to the emergency power of the executive during an emergency.\textsuperscript{954}

383. Many of the estimated 300 lawsuits brought by businesses or religious groups against COVID-19 measures claim a violation of Constitutional rights.\textsuperscript{955} During the spring and summer of 2020, the majority of these suits were not successful, with lower court decisions often relying on the precedent set by the \textit{Jacobson v. Massachusetts} decision from 1905, which provided deference to state orders during a public health emergency after the U.S. Supreme Court upheld a state law mandating the smallpox vaccination of adults which included penalties of fines and imprisonment for noncompliance.\textsuperscript{956} Still, a growing number of challenges to COVID-19 restrictions blocking religious freedom have been successful, coinciding with the change to a more conservative-leaning Supreme Court beginning in the fall of 2020.

3.1. Background on the United States Judicial System

384. The United States Constitution establishes three branches of the federal government: the executive branch, the legislative branch, and the judiciary branch. For the judiciary branch, the Constitution details the authority of the federal court system, specifying that the federal court hears cases centered around a federal law or a violation of the Constitution itself. The Constitution also establishes the Supreme Court as the highest court in the United States.

385. Traditionally, federal cases start at one of the 94 district courts spread across the country, and any appeals from these decisions are brought before one of the 13 federal circuit courts. The United States Supreme Court, made up of nine justices, can then choose to hear appeals from the circuit court decisions or appeals from state courts on matters relating to federal law or the Constitution.

386. Separate from the federal court system, each state has its own court system. The structure and jurisdiction of each state’s court system vary from state to state, but each state has the highest court that hears cases on appeal.


\textsuperscript{955} Ibid.

At both the state and federal level, court decisions tend to be based on precedent, which means that the courts rely on previous rulings with similar sets of facts and apply standards or rules established by the previous decisions.

3.2. Court Challenges During the COVID-19 Pandemic

Challenging the Public Health Authority of the Executive

Several state court challenges were brought during the pandemic challenging the public health authority of the state executive branch, typically the state governor or public health officer. These challenges generally allege an overreach of executive power, claiming the state executives were exceeding their authority or failing to obtain the legislative or judicial oversight required by the state’s constitution or emergency laws in issuing COVID-19 orders. Several of these cases claim that a public health emergency falls outside of the state’s emergency powers under the law.957

The most famous example of a court challenge to public health authority occurred early on in the pandemic. In Wisconsin Legislature v. Secretary-Designee Andrea Palm, the Wisconsin legislature filed suit claiming an extension to the state stay-at-home order by the state health officer exceeded her authority in that position.958 On May 13, 2020, the Wisconsin Supreme Court ruled in favor of the legislature and held that because the stay-at-home order extension did not go through the proper emergency rulemaking procedures set under state law, it was unenforceable.959 This effectively lifted the statewide stay-at-home order in Wisconsin.

By October 2020, it was estimated that just under 1,000 lawsuits were filed in the United States challenging the use of state executive authority related to COVID-19 orders.960 Emergency powers and processes vary from state to state, so the success of these lawsuits depends on the makeup of that individual state’s laws and constitution. For example, in October 2020, the Michigan Supreme Court ruled that the Governor violated the state’s Constitution by not seeking the required legislative approval for additional targeted COVID-19 orders.961

Challenging Constitutionality of COVID-19 Restrictions

There are also many cases challenging the constitutionality of COVID-19 restrictions, both at the state and federal court level, with several cases making it all the way up to the United States Supreme Court.

In South Bay United Pentecostal Church, et al., v. Newsom, a California church filed for an injunction seeking to prevent enforcement of a California Executive Order by the Governor of California, Gavin Newsom. The church claimed that the religious gathering restrictions in the Executive Order were a violation of their rights under the Free Exercise Clause of the First Amendment.962 A federal district court

957 Ibid.
959 Ibid.
first denied the church’s request for a temporary injunction, applying the standards used in previous Free Exercise Clause rulings, finding that the restrictions from the Governor were neutral, rationally based to protect the safety, and applied generally. The Ninth Circuit Court affirmed the decision by the district court on appeal, also finding the restrictions to be neutral, generally applicable, and rationally based. The case was then heard by the United States Supreme Court, which in a 5-4 decision issued on May 29, 2020, affirmed the rulings of the lower courts, finding the restrictions in the Executive Order consistent with the Free Exercise Clause. The majority opinion stated that the restriction also applied to secular businesses and deferred to state officials to make judgments on the needs for public health.

But on February 5, 2021, the California church sought another injunction against a statewide order banning indoor religious services issued with the spike in cases, and this time the more conservative-leaning Supreme Court, with a 6-3 decision blocked California’s public health order. The reasoning for the majority opinion and shift away from the precedent set by the May 2020 decision was not extensively explained by the court, but stated that religion was being targeted for differential treatment under the California order. Later that month, after Santa Clara County in California refused to stop enforcing the ban on indoor religious services, the United States Supreme Court in a 6-3 decision ordered the county to stop enforcing the ban in Gateway City Church v. Newsom.

This follows the trend set in November 2020, when the United States Supreme Court, in a 5-4 decision, voted to block a New York restriction on indoor religious services. In Roman Catholic Diocese of Brooklyn, New York v. Cuomo, the majority opinion felt that the burden on indoor religious services was not neutral in that at the same time, the state was allowing people to go to secular buildings.

Aside from challenges based on religious worship, there were numerous lawsuits brought by restaurants and businesses against closure orders, challenging the constitutionality of those restrictions.

In Friends of Danny Devito v. Wolf, the Supreme Court of Pennsylvania rejected the petition by a group of business owners seeking to vacate the governor’s non-essential business closure on April 13, 2020. The claimants argued that the closure order violated their constitutional rights to free speech, assembly, and judicial review, but the court ruled that order was reasonably necessary in light of the public

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963 Ibid.
964 Ibid.
966 Ibid.
967 Ibid.
969 Gateway City Church, et al., v. Newsom, No. 20A138 (2021).
971 Ibid.
health emergency. 973 The claimants appealed this decision and on May 6, 2020, the United States Supreme Court declined to block enforcement of the order. 974

397. In Michigan, a lawsuit was brought to the United States District Court by a restaurant trade association to federal court alleging a violation of the Commerce Clause and Equal Protections Clause in the Constitution caused by the ban on indoor dining. The restaurant trade association sought to win a restraining order or injunction against the ban that would prevent enforcement. On December 2, 2020, the United States District Court for the Western District of Michigan dismissed the lawsuit, stating their reliance on public health decisions made by the government officials. 975

398. On November 18, 2020, the U.S. District Court for the District of Maryland dismissed a suit brought by Maryland businesses and religious leaders seeking to stop the governor’s order closing businesses and banning large gatherings. The claimants felt this order was a violation of the First Amendment rights to religious freedom and assembly, as well as a violation of the Equal Protection Clause, since the order allowed for differential treatment for larger businesses deemed essential. The District Court ruling dismissing the lawsuit relied on the precedent set by the May 29, 2020 Supreme Court decision in South Bay United Pentecostal Church, et al., v. Newsom and the historic precedent set by Jacobson v. Massachusetts in that the plaintiffs failed to show that the order had no substantial relation to protecting public health and stating that it was not the role of the court to second guess public health policy choices. 976

399. While the majority of lawsuits challenging COVID-19 measures related to business closures have failed to succeed in court, a number of lawsuits brought by religious organizations challenging closures that impacted religious worship were ultimately successful. In addition to the number of challenges brought by state legislatures against the public health authority of the executive branch within states, the United States has seen and likely will continue to see court challenges against state governor and public health officer authority.

973 Ibid.
VIII. China

Summary

400. Apart from several small-scale local outbreaks that attracted prompt government responses, the epidemic in China generally abated since March 2020 and its control and prevention have entered a normalized stage.

401. No significant legislative changes regarding COVID-19 have taken place so far, although an overhaul of the existing legal system on public health has been placed on the legislature’s agenda of 2021.

402. New measures for normalized control of COVID-19 nationwide mainly concentrate on gradual relaxation of containment measures according to the risk rating of different areas (which are categorized as involving low, medium, or high risk). It is noteworthy that by February 18, 2021, all areas of high risks in China were eliminated.977

403. For the moment, there is no public information on cases successfully challenging general government measures taken to mitigate the COVID-19 crisis, as such claims are not admissible according to the Administrative Litigation Law.

1. Measures Taken in the Fight Against the COVID-19 Pandemic

1.1. General Measures

404. According to a notice by the State Council in April 2020, gradual relaxation of containment measures should follow three general principles:

1) restrictions for public places and workings space should be relaxed according to the local emergency response level and rating of the COVID-19 risks;

2) particular attention should be paid to control of risks in special institutions, such as elderly care institutions, children’s welfare homes, prisons, mental health and medical institutions;

3) containment measures at key places, such as air transportation and port quarantine, should be enhanced, and key groups of the population (including elderly people, children, students, medical workers and others) should be afforded special care.978

405. These principles generally remained as the overall strategy supplemented with more detailed central guidance.

Public Transport

406. Regarding international transport, severe restrictions are still imposed to reduce the risk of imported cases. In June 2020, the Civil Aviation Administration of China issued the Notice on adjusting

977 All High-risk Areas Across the Country Are Cleared // Xinhua News. URL: http://www.gov.cn/xinwen/2021-02/18/content_5587641.htm (the date of access: April 7, 2021).

978 State Council. Notice on further doing a good job in the prevention and control of the new coronavirus pneumonia epidemic of key populations in key units and key units. April 6, 2020. URL: http://www.gov.cn/zhengce/content/2020-04/08/content_5500241.htm (the date of access: April 7, 2021).
international passenger flights, which replaced the previous notice that was issued in March,\textsuperscript{979} and permitted more companies to operate international passenger routes to a chosen port city.\textsuperscript{980} This Notice also stipulated circuit breaker and incentive measures based on the nucleic acid tests of passengers after the arrival of the inbound flights. The flight control, however, was tightened again in September 2020 by a Civil Aviation Administration’s notice which required that for three categories of inbound international flights with high risks the passenger load rate should not exceed 75%.\textsuperscript{981} Since July 2020, international passengers are also required to take the nucleic acid test prior to their boarding.\textsuperscript{982}

407. Most domestic public transportation has been resumed, and in June 2020 the Ministry of Transport issued an updated version of Guide for the regional and rated prevention and control of the new coronavirus pneumonia epidemic in passenger terminals and transportation vehicles, which laid down differentiated and quantified requirements of disinfection, ventilation, transport organization, and personnel protection measures applied to areas of different levels of risks.\textsuperscript{983}

1.2. Containment Measures Regarding Industrial and Non-Productive Sector

408. All restrictions on business and production have been lifted, and the government’s focus has been on guiding enterprises and public institutions to adopt protective measures at the workspace (\textit{para. 435 of Annex 3 of the Analytical Report}).\textsuperscript{984} The catering sector has gradually resumed since March 2020. Restrictions on tourism and cinemas started to be lifted in 2020. On July 14, 2020, the Ministry of Culture and Tourism issued a new notice resuming cross-provincial tours and increased the upper limit of visitor volume of tourist attractions from 30% to 50% of their maximum volume.\textsuperscript{985} From July, tourist attractions are allowed to open indoor places as long as precautionary measures are taken properly. International tours have not been resumed yet. On July 16, 2020, the China Film Administration issued a new notice along

\textsuperscript{979} Civil Aviation Administration of China. Notice on further reducing international passenger flights during the epidemic prevention and control period. March 26, 2020. URL: \url{http://www.gov.cn/zhengce/zhengceku/2020-03/27/content_5496232.htm} (the date of access: April 7, 2021).

\textsuperscript{980} Civil Aviation Administration of China. Notice on adjusting international passenger flights. June 4, 2020. URL: \url{http://www.gov.cn/zhengce/zhengceku/2020-06/04/content_5517160.htm} (the date of access: April 7, 2021).

\textsuperscript{981} News website of the Civil Aviation Administration of China. September 1, 2020. URL: \url{http://www.gov.cn/xinwen/2020-09/01/content_5539008.htm} (the date of access: April 7, 2021).

\textsuperscript{982} Announcement of the Civil Aviation Administration, the General Administration of Customs, and the Ministry of Foreign Affairs on the boarding of passengers on flights to China with a negative COVID-19 nucleic acid test certificate. July 20, 2020. URL: \url{http://www.gov.cn/zhengce/zhengceku/2020-07/21/content_5528639.htm} (the date of access: April 7, 2021).


\textsuperscript{984} Novel coronavirus pneumonia joint prevention and control mechanism of the State Council. Notice on issuing the guidelines for prevention and control measures for the resumption of work and production of enterprises and institutions in different risk regions. April 9, 2020. URL: \url{http://www.gov.cn/zhengce/content/2020-04/09/content_5500685.htm} (the date of access: April 7, 2021).

\textsuperscript{985} Notice of the General Office of the Ministry of Culture and Tourism on promoting the expansion and resumption of business of tourism enterprises. July 14, 2020. URL: \url{http://www.gov.cn/zhengce/zhengceku/2020-07/14/content_5526872.htm} (the date of access: April 7, 2021).
with an operational guide on epidemic prevention and control,\textsuperscript{986} which allowed cinemas in low-risk areas to resume business since July 20, 2020 (\textit{para. 436 of Annex 3 of the Analytical Report}). Decisions of resumption of school classes are determined by local governments guided by the opinions of local epidemic control experts and the Ministry of Education. According to clarifications issued by the Ministry of Education in June 2020,\textsuperscript{987} only schools in low-risk areas fully equipped with epidemic control conditions could resume classes in staggered time, and students were to be regularly tested with body temperature (\textit{para. 433 of Annex 3 of the Analytical Report}).

\section{1.3. Containment Measures Regarding Population}

Most containment measures for the population were relaxed, although requirements of social distancing and use of QR code system are retained (\textit{paras. 437–439 of Annex 3 of the Analytical Report}).

The novel coronavirus pneumonia joint prevention and control mechanism of the State Council issued the Notice on ensuring precise health management and promoting orderly population flow on June 25, 2020, which directed the local prevention and control mechanisms to implement the following:

\begin{itemize}
  \item local authorities should rate the epidemic risks scientifically and define the prevention and control areas legally and precisely to the smallest units of the population (such as buildings, wards, residential communities, natural villages), and adopt comprehensive measures to restrict population flow and conduct nucleic acid testing and health monitoring;
  \item individuals should form good sanitary habits and lifestyle such as one-meter social distancing, frequent handwashing, mask-wearing, and others;
  \item for areas of medium or high risks, unnecessary population movement should be reduced and gathering should be avoided. For cross-area traveling individuals with previous travel or residence history in areas of medium or high risks, it is required to provide the ”green health code” or a certificate showing a negative result of nucleic acid test 7 days prior to their arrival at the new place. Otherwise, they will be required to be quarantined for 14 days for medical observation;
  \item for areas of low risks, individuals with ”green health code” can freely move and should avoid traveling to medium or high-risk areas;
  \item measures for health management should be adopted scientifically, precisely, and in accordance with legal requirements. Unreasonable restrictive measures other than those necessary for normalized control and prevention must be rectified promptly;
\end{itemize}

\textsuperscript{986} China Film Administration. Notice of orderly advancing the reopening of movie theaters under the normalization of epidemic prevention and control. July 16, 2020. URL: \url{http://www.gov.cn/zhengce/zhengceku/2020-07/16/content_5527363.htm} (the date of access: April 7, 2021).

\textsuperscript{987} Ministry of Education. 20 questions about resuming school and class under normalization of epidemic prevention and control. June 12, 2020. URL: \url{http://www.moe.gov.cn/jyb_xwfb/moe_1946/jy_2020/202006/t20200612_465535.html} (the date of access: April 7, 2021).
• for health management of individuals leaving Beijing, Notice on doing a good job in the health management service of novel coronavirus pneumonia for persons leaving Beijing shall apply.  

411. Several special arrangements were directed by the National Health Commission in late December 2020 to prepare for the epidemic control during the Chinese New Year. Family gatherings were supposed to be limited to 10 or less people, and festival shows, sports competitions, or fairs were subject to a strict approval process and all equipped with body temperature monitoring arrangements. Compared to measures above (para. 410 of Annex 4 of the Analytical Report), stricter requirements such as approval by local epidemic control headquarter and nucleic acid test taken with 72 hours were also imposed on cross-area travel.

1.4. Support Measures for Industrial and Non-Industrial Sectors

412. The government has issued a lot of preferential policies of tax and fee levy to support industrial and non-industrial sectors. Many of the measures continue to stay effective. For example, in March 2021, the Ministry of Finance and State Administration of Taxation jointly issued an Announcement on extending the implementation period of some preferential tax policies and an Announcement on continuing the implementation of partial tax and fee preferential policies in response to the epidemic, which extended several previous tax or fee reduction policies for medical workers, individual industry and commerce households, film industry, and others. Various support measures for enterprises, such as financial

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993 Announcement of the Ministry of Finance and the State Administration of Taxation on personal income tax policies for the prevention and control of the pneumonia. February 6, 2020. URL: http://www.chinatax.gov.cn/chinatax/n810341/n810755/c5143466/content.html (the date of access: April 7, 2021).


subsidiaries, reduction of administrative fees, remittals of unemployment insurances were also adopted by local governments.996

2. Court Practice With Respect to the COVID-19 Pandemic

413. According to the Administrative Litigation Law of PRC,997 lawsuits against government policies do fall into the scope of accepted cases by courts, and normative documents intended for general application can only be collaterally attacked if a specific administrative act grounded on that documents is challenged in the first place. This means that general orders, resolutions, and decisions issued by local epidemic control headquarters are not amendable to judicial review.

414. Regarding the judicial review of specific administrative acts for epidemic control, several provincial courts (which are high courts below the Supreme People’s Court in China) have addressed several issues to guide adjudication by lower courts.998 The relevant principles and rules are not systematically articulated. Still, it is possible to report courts’ approaches to several main issues:

- regarding general principles of reviewing the legality of government acts, in determining whether the adopted measures are reasonable and necessary for the epidemic control, courts are supposed to defer to the administrative agencies’ primary judgment based on advice by medical experts, and the people’s courts are supposed not to second guess the administrative bodies’ judgment in hindsight by referring to consequences of those measures;

- the legal requirement of procedural regularity tends to be subordinated to administrative expediency. Where emergency management measures such as closures and mandatory isolations are proved necessary for epidemic prevention and control and there is no manifest violation of law, the people’s courts are supposed to support administrative bodies to implement such measures. Even if the relevant approval procedures have not been fulfilled due to an emergency, so long as formalities have been completed afterwards in accordance with the law, the administrative acts should not be held as illegal;

- in determining whether administrative acts of requisitioning houses, equipment, vehicles, and other materials required for emergency rescue are legal, the people’s courts are supposed to scrutinize whether the scope and extent of requisition are suitable for its purpose, whether the legal procedures are complied with, and whether compensation is reasonable.

415. Overall, the courts’ approaches are oriented to facilitate the effective control of the epidemic, and so far no case has been known for successfully challenging government measures as illegal.

996 The General Office of the Beijing Municipal People’s Government. Notice on “several measures to support small, medium and micro enterprises and individual industrial and commercial households in normalizing epidemic prevention and control and accelerating recovery and development”. March 19, 2021. URL: http://www.gov.cn/xinwen/2021-03/19/content_5593888.htm [the date of access: April 7, 2021].

997 Administrative Litigation Law of the PRC 2017. Articles 12, 53, 64. URL: http://www.npc.gov.cn/zgrdw/npc/xinwen/2017-06/29/content_2024894.htm [the date of access: April 7, 2021].

998 The Zhejiang High People’s Court Administrative Division. Notice on the issuing of the “answers to several Specific Questions on the Trial of Administrative Cases Involving the Prevention and Control of the Novel Coronavirus pneumonia epidemic”. February 27, 2020. URL: http://www.hsls.cc/index.php?s=news&c=show&id=182 [the date of access: April 7, 2021]; Answers to several questions about legal applications in cases concerning novel coronary cases by Hunan High People’s Court. February 28, 2020 URL: https://www.thepaper.cn/newsDetail_forward_6221510 [the date of access: April 7, 2021]; Series of questions and answers by Shanghai Higher People’s Court on the application of law in cases involving the novel coronavirus pneumonia epidemic. May 8, 2020. URL: https://www.sohu.com/a/393859710_800348 [the date of access: April 7, 2021].
IX. The Russian Federation

Summary

416. During the period under review, normative acts of general application were drafted and adopted at the federal level.

417. Due to the improved epidemiological situation, several restrictive measures, including those at the level of the subjects of the Russian Federation, were lifted, the term of some support measures for population, industrial and non-productive sectors was extended, and new support measures were introduced.

1. Evolution of the Measures Taken in the Fight Against the COVID-19 Pandemic

418. In December 2020, the Law “On Biological Safety” was adopted. It establishes the regulatory framework in the field of biological safety and a set of measures for the protection of the population. The provisions of the Law on Biological Safety apply, in particular, to the relations pertaining to the spread of COVID-19, since the emergence, importation, and spread of new and/or previously unknown infections in the Russian Federation are considered to be biological threats (hazards) by the law.

419. Law on Biological Safety provides a regulatory framework for combating the spread of infectious diseases and, in particular:

- defines the powers of state authorities of the Russian Federation and the subjects of the Russian Federation;
- enshrines measures to combat the spread of infectious diseases;
- establishes principles for the formation of a biosafety information system.

420. The exercise of control (supervision) in the field of ensuring biological safety is entrusted to the existing executive authorities.

421. On January 4, 2021, the Presedential Decree No. 12, which establishes the procedure for state authorities to prevent the threat of emergencies associated with the spread of dangerous infectious diseases, was signed into law.

422. Presidential Decree No. 12 defines the powers of:

- the Government of the Russian Federation to create the Coordination Council to prevent the threat of emergencies associated with the importation into the Russian Federation and the spread of dangerous infectious diseases on its territory;


1000 Explanatory note to the draft of the Federal Law No. 850485-7 “On biological safety in the Russian Federation”.

• the Coordination Council to create the Operational Headquarters based on a resolution of the Rospotrebnadzor;

• the Operational Headquarters to develop and approve an action plan to prevent the spread of dangerous infectious diseases, prepare proposals for the establishment of restrictive measures, and conduct an awareness campaign;

• the Rospotrebnadzor to establish one of the risk levels and response measures corresponding to it.

423. Presidential Decree No. 12 also defines a list of measures to prevent and counter the spread of infectious diseases, corresponding to three different levels of risk, and identifies the authorities responsible for their implementation.

424. Each of the risk levels indicates the prevalence of dangerous infectious diseases:

• the first level — the spread occurs on the territory of foreign countries but there is a risk of importation into the territory of the Russian Federation;

• the second level — isolated cases and local disease outbreaks have been reported on the territory of the Russian Federation;

• the third level — there has been an epidemic spread within the territory of one or several subjects of the Russian Federation.

425. In December 2020, the Government of the Russian Federation adopted the order approving an action plan to develop and reinforce the system of sanitary and epidemiological supervision for 2021–2028.1002

426. Implementation of the action plan is aimed at:

• maintaining a stable sanitary-epidemiological situation, including during the spread of infections;

• accelerating the response to threats to the sanitary-epidemiological welfare of the population;

• developing a system of bodies and organizations carrying out the state sanitary-epidemiological supervision.


1002
At the level of the subjects of the Russian Federation, some restrictive measures were mitigated: mandatory self-isolation was abolished, the working conditions of organizations whose operation involves the mass attendance of citizens were changed (Table 7, Table 8).

2. Measures Taken in the Fight Against the COVID-19 Pandemic

2.1. General Measures

Transport

International transportation was restricted (para. 489 of Annex 3 to the Analytical Report).

Some of the restrictive measures previously adopted in this area have been repealed or substantially modified, in particular:

- the decision criteria for the resumption of international traffic have been updated;
- additional measures to reduce the risks of the COVID-19 spread when operating rail traffic have been identified;
- regular international flights with Armenia, Azerbaijan, Belarus, Cuba, Egypt, Finland, Germany, Greece, India, Japan, Kazakhstan, Korea, Kyrgyzstan, Qatar, Serbia, Singapore, Sri


Lanka, Syria, Tajikistan, the UAE, Uzbekistan, Venezuela, Vietnam have been resumed on a reciprocal basis;\textsuperscript{1006}

- the decision to increase the number of regular flights with some of the above-mentioned States has been made;\textsuperscript{1007}

- the flights to foreign countries from airports located on the territory of some subjects of the Russian Federation have been resumed since April 1, 2021;\textsuperscript{1008}

- the railway service with the Republic of Belarus has been resumed;\textsuperscript{1009}

- the suspension of air traffic to and from the UK has been extended until April 16, 2021.\textsuperscript{1010}

431. Most of the adopted decisions are of unlimited duration.

\textit{Public Health}

432. The following measures have been adopted in the healthcare sphere:

- on January 18, 2021, mass vaccination of the population was launched\textsuperscript{1011} — for this purpose, the procedure for vaccinating adults against COVID-19 has been developed;\textsuperscript{1012}

- new recommendations on the organization of anti-epidemic regime in hospitals regarding the treatment of patients with COVID-19 have been developed;\textsuperscript{1013}


\textsuperscript{1008} Ibid.


\textsuperscript{1011} Meeting of the President of the Russian Federation with members of the Government of the Russian Federation. URL: http://www.kremlin.ru/events/president/news/64886 (the date of access: March 25, 2021).


• the period of preferential duty on medical supplies has been extended until March 31, 2021;\textsuperscript{1014}

• the period of support measures to remove barriers for the importation of medical supplies has been extended until March 31, 2021;\textsuperscript{1015}

• a procurement ban on foreign-made masks for the purposes of purchasing for state and municipal needs as well as for the needs of national defense and state security has been established;\textsuperscript{1016}

• a procedure for conducting an experiment on recording medical certificates of death in the Unified State Health Information System has been defined;\textsuperscript{1017}

• practical recommendations for the operation of gas-fired oxygen supply systems in medical institutions have been given;\textsuperscript{1018}

• a procedure for carrying out medical and pharmaceutical activities without the necessary permits has been defined;\textsuperscript{1019}

• additional funding for hospitals and clinics has been allocated from the federal budget.\textsuperscript{1020}

433. The listed measures are of a temporary nature and are limited to a specific date or the end of the spread of the coronavirus infection.

\textit{Education}

434. Due to the improvement of the epidemiological situation, the heads of higher educational
institutions have been instructed to organize the educational process in a full-time mode whilst taking measures to prevent the spread of the new coronavirus infection.  

435. The Ministry of Education of the Russian Federation has issued recommendations for the use of information technology during the spread of the new coronavirus infection. In particular, recommendations provide for the creation and use of an e-learning environment for remote education.  

436. The procedure for passing final state certification by school graduates has been simplified.  

437. Around RUB 14 billion have been allocated from the Reserve Fund of the Government of the Russian Federation to support medical, scientific, and educational institutions.  

438. The previously adopted measures (para. 494 of Annex 3 to the Analytical Report) continue to be applied. In particular, possibilities for distance learning and remote meetings of dissertation councils remain in place.

2.2. Containment Measures Regarding Industrial and Non-Productive Sectors  

439. Senior officials (heads of the supreme executive State authorities) of the subjects of the Russian Federation were recommended to:

- take sanitary-epidemiological measures, including containment measures;
- prohibit legal entities and individual entrepreneurs to hold entertainment events and provide catering services from 23:00 to 06:00.  

440. The Ministry of Construction, Housing and Utilities of the Russian Federation has developed recommendations for the prevention of COVID-19 among construction workers, which comprise a number of restrictive measures and shall be applied at all enterprises engaged in construction, reconstruction of


capital construction objects, and landscaping in order to prevent the spread of COVID-19. In addition, supplementary recommendations applicable in conditions of increased epidemiological risks have been developed.\textsuperscript{1026} They provide for the introduction of new containment measures in the event of deterioration of the sanitary-epidemiological situation.

441. Sanitary-epidemiological rules for the prevention of the new coronavirus infection, which provide for the implementation of a set of activities to prevent the spread of the infection by the Rospotrebnadzor, have been extended until January 1, 2022. The following measures are envisaged with regard to organizations and individual entrepreneurs: ensuring disinfection regime, identification of persons with signs of infectious diseases, restriction or cancellation of departure from the Russian Federation, temporary cessation of catering and retail trade enterprises, transition to a remote operation mode.\textsuperscript{1027}

442. The main restrictive measures are still being taken at the level of the subjects of the Russian Federation based on the sanitary-epidemiological situation in the respective territory. Failure to comply with the containment measures entails administrative responsibility (\textit{paras. 499–501 of Annex 3 to the Analytical Report}).

2.3. Containment Measures Regarding Population

443. Given that containment measures regarding population are established by the authorities of the subjects of the Russian Federation, they can differ between regions (\textit{paras. 502–503 of Annex 3 to the Analytical Report}). At the same time, administrative responsibility for violation of legislation in the field of ensuring sanitary-epidemiological welfare of the population remains in force throughout the Russian Federation (\textit{para. 504 of Annex 3 to the Analytical Report}).

2.4. Support Measures for Industrial and Non-Productive Sectors

444. In addition to the support measures previously adopted at the federal level (\textit{para. 507 of Annex 3 to the Analytical Report}), new legal acts have been adopted, providing, among other things, for the following:

- lower insurance premiums for organizations and individual entrepreneurs included in the register of SMEs;\textsuperscript{1028}


• extension of tax payment deadlines for the entities included in the register of SMEs and operating in the most affected sectors, as well as for the socially oriented non-profit organizations;1029

• restarting the program on preferential loans for the enterprises operating in the least recovered sectors1030 of the economy;1031

• allocating subsidies to private zoos, circuses, dolphinariums, and aquariums;1032

• extension of the support program for airlines suffering losses due to the spread of the new coronavirus infection.1033

445. In addition to the measures adopted at the federal level, regional support measures have also been taken (Table 7, Table 8).

2.5. Support Measures for Population

446. In addition to the previously adopted measures (para. 511 of Annex 3 to the Analytical Report), the following measures have been taken:

• the program of preferential mortgage loans for the purchase of real estate on the primary market has been extended;1034

• the tourist “cashback” program providing a partial refund of the cost of traveling within Russia has been renewed;1035


1030 These sectors include physical and recreational activities, hotel business, museums, zoos, film rentals, tourist and health resort organizations, catering services, the organization of conferences and exhibitions, art, sports, recreation and entertainment spheres.


• the Bank of Russia has given recommendations on temporary waiver of foreclosure and forced eviction of debtors from foreclosed residential premises\textsuperscript{1036} on the restructuring of loans (credits) to individuals and SMEs;\textsuperscript{1037}

• one-time payment to families with children under the age of 8 in the amount of RUB 5,000;\textsuperscript{1038}

• the list of payments to medical and other workers involved in the provision of medical care for the diagnosis and treatment of the new coronavirus infection has been expanded;\textsuperscript{1039}

• a number of terms concerning the stay or residence of foreign citizens and stateless persons in the Russian Federation have been suspended.\textsuperscript{1040}


3. Court Practice With Respect to the COVID-19 Pandemic


447. On December 25, 2020, the CC RF issued the Resolution\textsuperscript{1041} recognizing that subparagraph 3 of paragraph 5 of the Resolution of the Governor of Moscow Oblast\textsuperscript{1042} is not inconsistent with the Constitution of the Russian Federation.

448. According to the applicant, the disputed provisions, which imposed an obligation to restrict a stay outside one’s place of residence, had been adopted in excess of authority and disproportionately restricted the right to freedom of movement.

449. The CC RF concluded that such restrictions were a temporary administrative and legal measure employed to prevent the occurrence and development of emergency situations as well as to reduce the incidence of the coronavirus infection.

450. In accordance with the position of the CC RF, the introduction of such measures prior to the governor being given such powers was an operative anticipatory regulation, which was later legitimized by acts of a higher level.

451. The CC RF noted that the disputed provisions were adopted in conjunction with other provisions of constitutional and sectoral regulation, and their operation had the constitutionally justified purpose of protecting public health amid the spread of infection in the subjects of the Russian Federation.

452. Having drawn attention to the need to maintain a balance between the protection of life and health of citizens and the rights and freedoms of an individual citizen, the CC RF indicated that the restrictions were proportionate as manifested in establishing exceptions and eliminating the need to choose between compliance with the Decree and work attendance in connection with the Decree of the President of the Russian Federation No. 206 of March 25, 2020, “On declaring the non-working days in the Russian Federation”\textsuperscript{1043}.

\textsuperscript{1041} Resolution of the CC of the Russian Federation No. 49-P of December 25, 2020, “On the case on the review of constitutionality of the subparagraph 3 of paragraph 5 of the Resolution of the Governor of Moscow Oblast “On the introduction of the high alert mode in Moscow Oblast for administrative bodies and forces of the Moscow Oblast system of emergency prevention and response and some measures to prevent the spread of novel coronavirus infection (COVID-2019) on the territory of Moscow Oblast” pursuant to the request of the Protvinsky Town Court of Moscow Oblast”. URL: http://publication.pravo.gov.ru/Document/View/0001202012290002 [the date of access: March 25, 2021].

\textsuperscript{1042} Subparagraph 3 of paragraph 5 of the Resolution of the Governor of Moscow Oblast “On the introduction of the high alert mode in Moscow Oblast for administrative bodies and forces of the Moscow Oblast system of emergency prevention and response and some measures to prevent the spread of novel coronavirus infection (COVID-2019) on the territory of Moscow Oblast” pursuant to the request of the Protvinsky Town Court of Moscow Oblast”.

On November 5, 2020, the Constitutional Court of the Komi Republic adopted a Resolution\textsuperscript{1044} that declared paragraph 11 of the Decree of the Head of the Komi Republic,\textsuperscript{1045} which imposed a ban on holding mass events in the region, consistent with the Constitution of the Komi Republic.

A group of deputies made an inquiry to verify the constitutionality of the provisions of the Decree of the Head of the Komi Republic in connection with their adoption outside the competence of the relevant authority.

The Constitutional Court of the Komi Republic has concluded that the power to introduce a high alert mode and to implement restrictive measures against citizens and organizations belongs to the discretion of the Head of the Komi Republic and is in systemic connection with the prescriptions of Russian legislation.

The introduction of restrictive measures pursued the constitutionally significant objective to protect the population and the lives and health of citizens amid the spread of the coronavirus infection that, according to the Constitutional Court of the Komi Republic, could not be regarded as a violation of the Constitution of the Komi Republic.

### 3.2. Explanations of the Supreme Court of the Russian Federation

On February 17, 2021, The Supreme Court of the Russian Federation issued the Review No. 3 on selected issues of court practice related to the application of legislation and measures to fight the spread of the new coronavirus infection (COVID-19) in the Russian Federation.\textsuperscript{1046} It contains the following conclusions:

- a court is entitled to postpone the trial if a witness, specialist, or expert is unable to attend the trial due to restrictive measures;
- inability to perform enforcement actions due to the adoption of restrictive measures can be a ground for their postponement or suspension of enforcement proceedings;
- corporate employees that provide medical assistance in diagnosis and treatment of the new coronavirus infection, including medical workers who had contact with patients diagnosed with the new coronavirus infection when performing their duties, are entitled to social benefits;
- sub-tenants are entitled to apply for rent deferral pursuant to Part 1 of Article 19 of the Federal Law No. 98-FZ;
- the tenant is entitled to apply for a deferral pursuant to Part 1 of Article 19 of the Federal Law No. 98-FZ after an agreement to reduce the rent is reached;

\textsuperscript{1044} Resolution of the Constitutional Court of the Komi Republic of November 5, 2020, in the case on the review of constitutionality of the paragraph 11 of the Decree of the Head of the Komi Republic No. 16 of March 15, 2020, “On the introduction of the high alert mode” on request of the deputies of the State Council of the Komi Republic, IA Bogdanov, EV Dyachkova and O. Mikhailov. URL: http://ksrk.rkomi.ru/content/18196/2020.11.06_Постановление%20КС%20РК%20от%2005.11.2020.pdf [the date of access: March 25, 2021].


\textsuperscript{1046} Approved by the Presidium of the Supreme Court of the Russian Federation on February 17, 2021. URL: http://www.supcourt.ru/documents/ali/29689/ [the date of access: March 25, 2021].
owners and utilizers of non-residential premises in apartment buildings are subject to a moratorium on the calculation of penalties established by the Resolution of the Government of the Russian Federation No. 424 of April 2, 2020, “On the provision of utilities to owners and users of premises in apartment buildings and residential buildings”;

the current legislation does not provide for a mandatory pre-trial procedure for disputes on charging the funds under a contract on the sale of a tourist product if the trip has not taken place due to the spread of COVID-19;

the tour operator is obliged to return to the customer the sum paid in case of temporary incapacity to labor for more than 2 months in a row, any part of which took place from July 24, 2020;

the customer has a right to claim the termination of the contract on the sale of a tourist product and demand a refund if the customer is over 65 at the time of such a request;

the customer is entitled to refund the carriage fee if she or he acquires a group I or II disability before the expiration of 3 years from the departure date of the flight or before the date of air transportation;

the carrier does not pay penalties for refusing to perform the contract in the event of a threat and/or occurrence of certain emergency situations, the introduction of a state of high alert mode, or an emergency situation in the entire territory of the Russian Federation;

the penalty accrued due to the breach of the terms regarding the transfer of a co-funded facility to a construction co-investor does not include the amount accrued for the period from April 3, 2020, to January 1, 2021;

individuals are obliged to pay taxes within the established deadlines unless otherwise stipulated by law;

the current legislation does not provide for a mandatory pre-trial procedure for disputes on challenging the tax authorities' refusal to grant subsidies, as well as the tax authorities’ inaction in relation to applications for subsidies for SMEs operating in the most affected sectors of the Russian economy amid the deteriorating situation as a result of the spread of the new coronavirus infection;

a person infected with COVID-19 or who had contact with such a person and is obliged by virtue of a ruling or order to comply with sanitary-epidemiological rules may be prosecuted under Article 236 of the Criminal Code of the Russian Federation for a violation of the imposed restrictions;

criminal trials requiring urgent consideration may be conducted entirely via videoconference (even if the parties object);

Pursuant to point 2 of paragraph 10 of the Resolution of the Government of the Russian Federation No. 991 of July 6, 2020 (as amended on August 31, 2020), “On approval of Regulation on the peculiarities of the contract of carriage of passengers by air, including the right of the carrier to unilaterally change the terms of such contract or refuse its performance, as well as the order and terms of refund of the payment for air transportation in the threat and/or emergency situations, introduction of the high alert or emergency situations on the entire territory of the Russian Federation”. URL: [http://publication.pravo.gov.ru/Document/View/0001202007070053](http://publication.pravo.gov.ru/Document/View/0001202007070053) (the date of access: March 25, 2021).
• a petition for the preventive measure of pretrial detention may be considered via videoconferencing systems;

• the need to ensure the sanitary-epidemiological safety of the court session participants cannot be a reason for holding a closed court session;

• repeal of a regulatory act containing mandatory rules of conduct during the introduction of a high alert mode or repeal of its specific provisions may constitute grounds for terminating proceedings on an administrative offense stipulated by Article 20.6.1 of the Code of Administrative Offenses of the Russian Federation or canceling the decision taken on the case of the offense to impose an administrative penalty if it has not been executed;

• foreign citizens or stateless persons cannot be held administratively liable due to evasion of the administrative punishment in the form of administrative expulsion from the Russian Federation in the form of controlled independent departure from the Russian Federation during the period from March 15, 2020, to June 15, 2021.

### TABLE 1. PUBLIC “EMERGENCY” RESPONSE REGIME IN FRANCE, GERMANY, ITALY, SPAIN

<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
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<tr>
<td><strong>Fundamental law</strong></td>
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| **Term used**  | • Exceptional circumstances (Article 16) — a serious or immediate threat to “the institutions of the Republic, the independence of the Nation, the integrity of its territory or the fulfillment of its international commitments” and the “proper functioning of the constitutional public authorities” must be interrupted;  
• State of siege (Article 36) — in case of an imminent threat resulting from a foreign war or an armed insurrection; implies the transfer of public order | Emergency Constitution — a state of internal emergency which is declared in order to avert an imminent danger to the existence or free democratic basic order of the Federation or of a land | State of a war (Article 78) — no definition.  
No other state of emergency is regulated by the Constitution | State of alarm, emergency, siege — situations of catastrophe, health crises, paralysis of public services (the only time it has been declared before was during an air traffic controllers' strike), and shortage of basic necessities |
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<td>and police powers to the military authority</td>
<td></td>
<td>Federal Government / to issue instructions to land governments</td>
<td>Parliament / to declare a state of war and vest the Government with the necessary powers. The President of the Republic shall make declarations of wars as have been agreed by the Parliament; Government / to issue an act for bodies of the regions, metropolitan cities, provinces, and municipalities if the latter fail to comply with international rules and treaties or EU legislation, or in the case of grave danger for public safety and security, or whenever such action is necessary to preserve legal or economic unity and in particular to guarantee the basic level of benefits relating to civil and social entitlements, regardless of the geographic borders</td>
<td>Government (by means of a decree agreed upon by the Council of Ministers)</td>
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<tr>
<td>Competent authorities</td>
<td>• Exceptional circumstances — President upon consultation of the Prime Minister, the Presidents of the Houses of Parliament and the Constitution Council before enacting each measure;</td>
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<td>of local authorities (the State has the exclusive legislative powers in a matter of international prophylaxis); issue a temporary measure (Decree-law), in case of necessity and urgency (such a measure shall lose effect from the beginning if it is not transposed into law by the Parliament within 60 days of its publication)</td>
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<tr>
<td><strong>Time limit</strong></td>
<td>Exceptional circumstances — no time limit; State of siege — specified by the decree</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Maximum 15 days with a possibility of extension</td>
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<td><strong>Constitutionality</strong></td>
<td>Absence of substantive constitutional provisions (in relation to the &quot;state of health emergency&quot;)</td>
<td>Absence of substantive constitutional provisions (COVID-19 is a hazard neither to the free democratic order nor to the existence of the Federation or a land so that a state of internal emergency cannot legally be declared within the narrow boundaries</td>
<td>Absence of substantive constitutional provisions</td>
<td>Yes, according to Article 116.2</td>
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| Pre-COVID-19 legislation | • Law No. 55-385 of April 3, 1955, modified by the Ordinance No. 60-372 of April 15, 1960;  
  • Law No. 2015-1501 of November 20, 2015 | • Federal Infection Protection Act (FIPA);                                                | • Law No. 833 of 1978 (on the Establishment of the National Health Service);                   | • Organic Law No. 3/1986 of April 14, 1986, on Special Measures in Public Health Issues;            |
<p>|                          |                                                                        | • Disaster Protection Act — in 16 lands                                                   | • Law No. 106/1982 on the Approval and execution of the IHR 2005;                             | • Organic Law No. 4/1981 of June 1, 1981, on state of alarm, state of emergency, and state of siege; |
|                          |                                                                        |                                                                                            | • National Plan for Preparedness and Response to an Influenza Pandemic (2006);                | • Law No. 33/2011 of October 4, 2011 (the General Law on Public Health);                         |
|                          |                                                                        |                                                                                            | • Civil protection code (Legislative Decree No. 1 of January 2, 2018)                        | • Act No. 17/2015 of July 9, 2015, on the National Civil Protection System                     |
| Term used                | State of emergency                                                    | • No term is provided in the FIPA;                                                        | State of emergency                                                                        | State of alarm, emergency, and siege                                                            |
|                          |                                                                        | • State of disaster — in 16 lands                                                         |                                                                                            |                                                                                                 |
| Definition               | State of emergency — imminent peril resulting from serious violations of the public order or when events present | • No definition used in the FIPA;                                                         | • State of emergency — emergencies connected with disasters of natural origin or deriving from | State of Alarm (on the basis of essential goods stock-outs in the whole national territory or in a |
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</thead>
<tbody>
<tr>
<td>the quality of public calamity by their nature and their importance</td>
<td>• State of disaster — damaging event which endangers or substantially impairs the life, health, or vital supplies of numerous people, animals, natural resources, or substantial material assets to such an unusual extent that the resulting threat to public safety can only be effectively countered if the competent authorities and services, organizations and deployed forces work together under the uniform overall management of the competent civil protection authority.</td>
<td>human activity that can be faced by means of actions that can be implemented by the individual bodies and administrations that are competent in an ordinary way; emergencies connected with natural or man-made disasters which by their nature or extension require a coordinated response by several bodies or administrations as they must be faced through the deployment of extraordinary means to be implemented for a predefined period of time, regulated by the Regions and autonomous provinces; • Emergencies of national importance connected with natural origin or man-made disasters which, by reason of their intensity or extension, must, with immediate effect, be faced by means of actions that can be implemented by the individual bodies and administrations that are competent in an ordinary way</td>
<td>certain region), the government may issue necessary orders or decide to intervene in such services or mobilize its personnel in order to ensure the functioning of affected services; • State of Emergency (which may be requested on the basis of serious alteration of essential public services, among others), the government may intercept any kind of communications provided that it is necessary to clarify alleged criminal offenses or to maintain public order; • State of Siege, the government directing military and defense policies, shall assume all exceptional prerogatives.</td>
<td></td>
</tr>
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<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
<td>Spain</td>
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<tr>
<td><strong>Special criteria for emergency</strong></td>
<td>Imminent danger can be identified resulting from serious breaches of public order; events that constitute a public calamity by their nature and importance</td>
<td>• An epidemic situation of national importance determined by Federal Parliament; • Damaging event; • Spread of a threatening communicable disease</td>
<td>Imminent danger to the population</td>
<td>• Catastrophes, calamities, or public disasters (earthquakes, floods, fires, big accidents, etc.); • Health crises (epidemics, serious contamination situations, etc.); • Interruption of public services that are essential to the community or situations of a shortage of basic commodities</td>
</tr>
<tr>
<td><strong>Duration period</strong></td>
<td>12 days, unless prorogued or changed by the law</td>
<td>Not specified</td>
<td>12 months with a possibility of extension up to 12 months</td>
<td>15 days with a possibility of extension</td>
</tr>
<tr>
<td><strong>Extension of powers</strong></td>
<td>Yes, to the executive branch</td>
<td>• Federal Ministry of Health acts in a framework of an epidemic situation of national importance; • Federal Parliament declares an epidemic of national importance / determines the conditions</td>
<td>Yes, to the executive branch</td>
<td>Yes, to health authorities: the health authorities of the various public administrations may, within the scope of their powers, adopt the measures provided for in this Law when so required for urgent or necessary health reasons</td>
</tr>
<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
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</table>
| Competent authorities | • State’s representant in the departments / to reduce the freedom of movement at certain time and place;  
• Minister of Interior Affairs / house arrest of any individual presenting a threat to the public order and safety;  
• Council of Ministers / dissolving any group or association presenting threat and spaces of public gathering;  
• Minister of Interior Affairs or representant in the departments / closure of theaters or bars by order | • Federal Parliament / to declare an epidemic of national importance / determine the conditions for an epidemic situation to be considered no longer existing;  
• Federal Ministry of Health / ensuring the supply of medical products | • Government / management of the state of emergency;  
• Council of Ministers / to declare emergency / appointment of the Extraordinary Commissioner;  
• Ministry of Health / to issue decrees in matters of health, within a framework of emergency of national importance;  
• Extraordinary Commissioner / implementation and coordination of the measures needed to contain and fight the COVID-19;  
• Regional, local authorities / implementation of regulations; | • Health authorities (Ministry of Health) / imposing personal obligations on retired and trainee health workers; requisitions of goods; duties on the population to collaborate with the police, etc. Regional health and emergency laws also contain similar provisions;  
• State and regional authorities / extraordinary powers to deal with pandemics;  
• Government / competent body (all civil authorities, members of the police forces of the autonomous and local councils, other civil servants and workers are placed under the direct authority of the Spanish Government) |
<p>| for an epidemic situation to be considered no longer existing | | | (Organic Law 3/1986 of April 14, on Special Measures in Public Health) | |</p>
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<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
<tbody>
<tr>
<td>Established procedure to take emergency measures</td>
<td>By a decree adopted by the Council of Ministers</td>
<td>By a decision of the Federal Parliament</td>
<td>By a decree adopted by the Council of Ministers (by the executive)</td>
<td>By a Governmental decree agreed upon by the Council of Ministers</td>
</tr>
</tbody>
</table>
| COVID-19 legislation                         | • Decree No. 2020-260 of March 16, 2020, modified by the Decree No. 2020-279 of March 19, 2020 (declaration of a lockdown);  
• Law No. 2020-290 of March 23, 2020 (state of health emergency) | • Act Regulating Special Powers of Action in the Context of an Epidemic Situation of National or Nationwide Scope and Defining Responsibilities under the Infection Protection Act — North Rhine-Westphalia;  
• Regulation on Protection against New Infections with the Coronavirus SARS-CoV-2;  
• Corona Travel Regulation;  
• Regulation on Childcare;  
• Federal Infection Protection Act (amended) | • Decree-Law No. 6 of February 23, 2020, replaced by Law No. 13 of March 5, 2020;  
• Decree No. 371 of February 5, 2020;  
• Decree No. 640 of February 27, 2020;  
• Decree-Law No. 18 of March 17, 2020 (“Cura Italia”);  
• Decree-Law No. 23 of April 8, 2020 (“Liquidità”);  
• Decree-Law No. 34 of May 19, 2020 (“Rilancio”) | • Royal Decree No. 463/2020 of March 14, 2020 (extending Decree — Royal Decree No. 492/2020 of April 24, 2020);  
• Royal Decree-Law No. 21/2020 of June 9, 2020, on urgent prevention, containment, and coordination of measures to deal with the health crisis caused by COVID-19 |
<p>| Term used                                    | State of health emergency                                              | An epidemic situation of national importance                           | State of emergency                                                    | State of alarm — in order to deal with the health                      |</p>
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<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
</table>
| Competent authorities | • Prime Minister / to restrict the freedom of movement, take measures on isolations, quarantine, closure of businesses and/or places of public gathering, requisition of goods/services, control of prices;  
• Minister of Health / organization of public health service | • Government of the Land / to submit to the Land Parliament a report on the measures taken, including the promulgated ordinances and decrees, together with an assessment of the situation;  
• Land Parliament / to declare an epidemic situation;  
• Land Ministry of Health / confiscation and disposal of medical, nursing or sanitary equipment, including raw materials, and medical and nursing care equipment;  
• Local authorities / enforcement of the regulations;  
• Federal Government / to regulate the import of | • Council of Ministers / to adopt a decree to take measures;  
• The Italian National Institute of Health / monitoring the development of COVID-19 situation;  
• State Ministry of Health / supervision of public health service, issuing restrictive measures to safeguard public health;  
• Extraordinary Commissioner / coordination and implementation of national measures on the whole territory;  
• Regional, local authorities / implementation of regulations | Central government / to declare a state of alarm |
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<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
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<td></td>
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<td>protective equipment</td>
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<td></td>
<td></td>
<td>independently</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Specified in legislation</td>
<td>2 months</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td>Decision-making mode</td>
<td>Centralized</td>
<td>Decentralized</td>
<td>Centralized</td>
<td>Centralized</td>
</tr>
</tbody>
</table>
## TABLE 2. PUBLIC “EMERGENCY” RESPONSE REGIME IN SWEDEN, UK, USA, CHINA, RUSSIA

<table>
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<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
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</thead>
<tbody>
<tr>
<td><strong>Fundamental law</strong></td>
<td>Constitutional laws</td>
<td>No written Constitution</td>
<td>Constitution</td>
<td>Constitution</td>
<td>Constitution</td>
</tr>
<tr>
<td><strong>Term used</strong></td>
<td>Constitutional readiness — a civilian crisis in peacetime is to be handled according to the ordinary legislative procedure</td>
<td>There is no legal meaning attached to “emergency” but in some laws, certain powers can be exercised if it is “urgent”</td>
<td>Not specified</td>
<td>State of emergency — definition not specified</td>
<td>State of emergency — attempts to change the constitutional order of the Russian Federation by violent means; natural and man-made emergencies, environmental emergencies, including epidemics and epizootics resulting from accidents, natural hazards, disasters, natural and other disasters</td>
</tr>
<tr>
<td><strong>Competent authorities</strong></td>
<td>• Riksdag or the Government / adopting ordinary legislation during civilian crises; • Authorities at state, regional, and Westminster Parliament (for UK wide measures, and for measures applying to England). Scottish Parliament (for Scotland), Northern Ireland Assembly (for</td>
<td>President / Executive emergency powers (including presidential emergency powers); States / “police powers” — to</td>
<td>• National People’s Congress Standing Committee / to decide a state of emergency; • President and the State Council / to</td>
<td>President or the Government of the Russian Federation with immediate notification to the Council of Federation and the State Duma</td>
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<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
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<tr>
<td>municipal level / cooperation in times of crisis</td>
<td>Northern Ireland) and Senedd Cymru (for Wales). Government Departments and Ministers also have individual powers within their normal fields of competence</td>
<td>enforce public health interventions like isolation, quarantine, and other laws to mitigate the spread of an infectious disease like COVID-19 during a pandemic; • Local governments / to declare local emergencies</td>
<td>decide and declare a state of emergency; • State Council / to solely decide and declare a state of emergency on sub-parts of provincial areas</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Time limit</td>
<td>Not specified</td>
<td>All emergency powers have a time limit after which they will automatically expire, from 1 month up to 2 years. These time limits can generally be extended</td>
<td>Not specified</td>
<td>Not specified</td>
<td>30 days, in some territories — 60 days</td>
</tr>
<tr>
<td>Constitutionality</td>
<td>No substantive constitutional provisions</td>
<td>No written constitution, so no specific test of “constitutionality”. However the legality of many of the regulations has been tested in court, and in most cases they</td>
<td>No substantive constitutional provisions</td>
<td>No substantive constitutional provisions</td>
<td>Article 56 of the Constitution of the Russian Federation</td>
</tr>
</tbody>
</table>

Not specified
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
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</thead>
<tbody>
<tr>
<td></td>
<td>• Act on Municipalities and County Councils Measures Ahead of and During Extraordinary Situations During Peace Time and Times of High Preparedness (2006:544)</td>
<td>• Public Health (Control of Disease) Act 1984: applies to England / Wales only</td>
<td>• Public Health Service Act;</td>
<td>• Prevention and Treatment of Infectious Diseases Law 2013;</td>
<td>• Federal Law No. 52-FZ of March 30, 1999 “On the sanitary-epidemiological well-being of the population”</td>
</tr>
<tr>
<td></td>
<td></td>
<td>It should be noted that the Civil Contingencies Act has not been used as a basis for the response to the COVID-19 pandemic. The UK Parliament enacted the Coronavirus Act 2020 on the basis of the Public Health (Control of Disease) Act 1984</td>
<td>• Robert T. Stafford Disaster and Emergency Assistance Act (the Stafford Act);</td>
<td>• Regulation on Responses to Public Health Emergencies 2011 (administrative regulation by the State Council);</td>
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</tr>
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<td></td>
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<td>• Defense Production Act</td>
<td>• National Response Plan for Public Health Emergencies 2006 (normative document by the State Council);</td>
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<td></td>
<td></td>
<td>• Local level: Response Plans for Public Health Emergencies at provincial, prefectural, and county levels (normative)</td>
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<tr>
<td>Criteria</td>
<td>Sweden</td>
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</tbody>
</table>
| **Term used** | • Public health hazard;  
• Preparedness for extraordinary situations | Emergencies | • Public health emergency;  
• Disaster, emergency, emergency disaster (e.g., New York) | • Emergency incidents;  
• Public health emergency | • An emergency;  
• The mode of operation of management bodies and forces of the unified state system of prevention and liquidation of emergency situations;  
• High alert mode;  
• Restrictive measures (quarantine) |
| **Definition** | • Public health hazard — a disease that is dangerous to public health and society;  
• Preparedness for extraordinary situations — a serious disturbance or imminent risk of a | An event or situation which threatens serious damage to human welfare in a place in the United Kingdom, an event or situation which threatens serious damage to the environment of a place in | • Public health emergency — a disease or disorder that presents a public health emergency;  
• Disaster, emergency, emergency disaster | • Emergency incidents — natural disasters, accidental disasters, public health incidents, or social safety incidents that take place by accident, has caused or might cause | • An emergency — situation in a certain territory resulting from an accident, natural hazard, catastrophe, spread of a disease posing a danger to others, natural or other |
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<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
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</thead>
</table>
| serious disturbance in important societal functions and requires urgent action by a municipality or a region | the United Kingdom, or war, or terrorism, which threatens serious damage to the security of the United Kingdom | — a public health emergency, including significant outbreaks of infectious diseases or bioterrorist attacks, otherwise exists | serious social damage and needs the adoption of emergency response measures;  
  • Public health emergency — sudden outburst of a serious contagious disease, colonial disease of unknown causes, important alimentary or occupational toxicosis that has caused or may cause severe effect on the health of the general public and to other incidents that severely affect the health of the general public | disaster which may cause or have caused human casualties, damage to human health or the environment, significant material losses, and disturbance of people’s living conditions;  
  • The mode of operation of management bodies and forces of the unified state system of prevention and liquidation of emergency situations — depending on the situation, the order of organization of activities of management bodies and forces of the unified state system of prevention and liquidation of
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<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
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</table>

emergencies and the main activities carried out by the said bodies and forces in the daily operation mode with the introduction of a regime of high preparedness;

- High alert mode — associated with the threat of an emergency and can be introduced depending on the situation, the forecasting of the threat of an emergency, and the occurrence of an emergency;

- Restrictive measures (quarantine) — restrictive measures (quarantine), including administrative, health, veterinary,
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<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
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</thead>
<tbody>
<tr>
<td>Special criteria for emergency</td>
<td>Danger to public health and society, cause of a serious disturbance</td>
<td>Serious damage to human welfare</td>
<td>The disease causes a public health emergency</td>
<td>Actual or potential serious social damage and need for the adoption of emergency response measures</td>
<td>Spread of a disease posing a danger</td>
</tr>
<tr>
<td>Duration period</td>
<td>Not specified</td>
<td>Different powers have different durations, ranging from 30 days, up</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Not specified</td>
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<td></td>
<td></td>
<td>to 2 years before they will expire</td>
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</tr>
<tr>
<td>Extention of powers</td>
<td>Yes, the temporary provisions in the Communicable Diseases Act relating to the Government’s competence to adopt provisions in the field of</td>
<td>No:</td>
<td>Yes:</td>
<td>Yes, little limits on government powers</td>
<td>Yes, the Government of the Russian Federation; the highest officials of the subjects of the Russian Federation / to take all necessary measures</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• no general power to declare an emergency, and nor is there any requirement for such a declaration</td>
<td>• President / expanded authority — 123 statutory powers that are activated and available to the</td>
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<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
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<tr>
<td>disease control were in force between April 18 and June 30, 2020</td>
<td>before emergency powers are exercised;</td>
<td>• there is a minor additional power which applies in cases of “urgency”. The criteria are that there is “an urgent need” but that there is “insufficient time” for the regular procedure to be followed. This is a limited power which means that a Minister can do something by way of a written direction, rather than by regulations. A “direction” will have the force of law for this purpose, but it does not fall within the normal hierarchy of norms;</td>
<td>• President when a national emergency declared;</td>
<td>• Secretary of Health and Human Services / authorization of the use of an unapproved drug, device, or biological product or unapproved use of an approved drug, device, or biological product</td>
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<td>Criteria</td>
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<tr>
<td>Competent authorities</td>
<td>• All competent authorities at all state levels;</td>
<td>• Minister (either UK wide or for Wales, Scotland and Northern Ireland) can specify that a particular thing is or isn’t an emergency by order;</td>
<td>• President / to declare a national emergency;</td>
<td>• Standing Committee of the National People’s Congress or the State Council / to make decisions on a state of emergency in accordance with the Constitution and other relevant laws. The State Council has the power to solely decide and declare a state of emergency on sub-parts of provincial areas;</td>
<td>• The President / to determine, in accordance with article 80 of the Constitution of the Russian Federation and federal laws, the main directions of state policy and to make other decisions in the area of protection of the population and territories from emergency situations;</td>
</tr>
<tr>
<td></td>
<td>• Public Health Agency and the National Board of Health and Welfare / coordinating</td>
<td>• Order in Council (meaning they are made in the name of the Crown) or by a senior Minister of the Crown. A senior Minister means the Prime Minister, the Chancellor of the Exchequer or a Secretary of State — in essence, the most</td>
<td>• Secretary of Health and Human Services / to declare a public health emergency;</td>
<td>• Federal government / to direct private companies to meet the supply and resource needs for national defense</td>
<td>• The Government / to adopt a decision on the introduction of a regime of high</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
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<td>senior members of the UK Executive / most important power is a power to make emergency regulations — can only be made by a senior Minister of the Crown if it would not be possible to make them by way of Order in Council without a serious delay</td>
<td></td>
<td></td>
<td>( \text{hoc headquarters for handling public health emergencies at both national and provincial levels;} )</td>
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<tr>
<td>Established procedure to take emergency measures</td>
<td>Risk analysis, planning, data collection, and reporting, ensuring readiness, collaboration, and coordination, etc.</td>
<td>Clarifying whether a certain event falls within the definition of an emergency</td>
<td>Federal procedure: Under the National Emergencies Act, the President is authorized to declare an emergency. The President is required to transmit the declaration to Congress and must publish the declaration in the Federal Register. The President must specify the provisions of law under which the President or other officials will act to enable statutory emergency authorities;</td>
<td>Prevention and preparedness, surveillance and warning, response operations and rescue, and post-emergency response rehabilitation and reconstruction</td>
<td>Following the criteria: number of people who have died and/or been injured; the amount of environmental damage and material losses (amount of material damage) In accordance with the Decree of the Chief State Sanitary Doctor of the Russian Federation of March 18, 2020, No. 7 “On ensuring the regime of isolation to prevent the spread of COVID-19” entrusted to the heads of the subjects of the Russian Federation (heads of the highest executive body of</td>
</tr>
<tr>
<td>Criteria</td>
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<tr>
<td>COVID-19 legislation</td>
<td>Not adopted</td>
<td>New primary legislation:</td>
<td>• State procedure: varies from state to state</td>
<td>Not adopted</td>
<td>government of the subjects of the Russian Federation to take measures to introduce a high readiness mode and quarantine</td>
</tr>
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<td></td>
<td></td>
<td>Applies throughout the UK —</td>
<td></td>
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<td>• Resolution No. 66 of the Government of the Russian Federation of January 31, 2020, “On introducing amendments to the list of diseases that pose a danger to others”;</td>
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<td></td>
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<td>Wales / Scotland / Northern Ireland;</td>
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<td>• Resolution No. 285 of the Government of</td>
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<tr>
<td>Criteria</td>
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<td>registering births and deaths;</td>
<td>• Corporate Insolvency and Governance Act 2020 (June 2020). Ordinary law changing insolvency rules and an emergency law relaxing some rules of corporate governance.</td>
<td>New secondary legislation:</td>
<td></td>
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<td></td>
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<td>• introduced under the Public Health (Control of Disease) Act 1984;</td>
<td>• Health Protection (Coronavirus, Restrictions) (England) Regulations 2020;</td>
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<td></td>
<td></td>
<td>• other Regulations on face masks,</td>
<td>• other Regulations on face masks,</td>
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<td>• Decree of the President of the Russian Federation of March 15, 2020, No. 73-rp “On the working group of the State Council of the Russian Federation to combat the spread of new coronavirus infection caused by 2019-nCOV”</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
<td>Russia</td>
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<td>domestic travel, international travel. More than 200 new pieces of secondary legislation with “coronavirus” in the title. The English and Welsh regulations were made under the Public Health (Control of Diseases) Act 1984. The Scottish regulations were designed under the Coronavirus Act 2020. The Northern Irish regulations were made under the Public Health Act (Northern Ireland) 1967 (as discussed above, the specific regulation-making powers in the 1967 Act were introduced in the Coronavirus Act 2020)</td>
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</tr>
<tr>
<td>Used term</td>
<td>Not adopted</td>
<td>Emergency — no definition</td>
<td>Disaster, emergency, emergency disaster (e.g., New York)</td>
<td>Not adopted</td>
<td>Not adopted</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
<td>Russia</td>
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</tr>
<tr>
<td>Competent authorities</td>
<td>Not adopted</td>
<td>• A power of the Government to make public health regulations; • A power of a justice of the peace to make an order in respect of an individual</td>
<td>• Secretary of Health and Human Services / declaration of a public health emergency; • President / declaration of emergency; • Local governments / declaration of emergency (disaster emergency)</td>
<td>Not adopted</td>
<td>• Government / to introduce high alert mode and emergency situations / to exercise powers as the coordinating body for the unified state system of prevention and liquidation of emergency situations / the right to establish rules of conduct mandatory for citizens and organizations in case of introduction of an emergency situation or heightened readiness regime / right to exercise the powers of the coordinating body of the unified state system of prevention and liquidation of emergency situations;</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
<td>Russia</td>
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</tr>
<tr>
<td>Sunset clause</td>
<td>Not adopted</td>
<td>2 years after the act is adopted with powers for parliament to bring rules to an end sooner than 2 years. For the secondary legislation, it will expire on average much sooner than 2 years, but with the possibility that the Government can extend the period</td>
<td>Vary between states</td>
<td>Not adopted</td>
<td>Vary between subjects</td>
</tr>
<tr>
<td>Decision-making mode</td>
<td>Decentralized</td>
<td>Decentralized</td>
<td>Decentralized</td>
<td>Centralized</td>
<td>Decentralized</td>
</tr>
</tbody>
</table>
### TABLE 3. MEASURES TAKEN IN THE FIGHT AGAINST THE COVID-19 PANDEMIC IN FRANCE, GERMANY, ITALY, SPAIN

<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>General measures</strong></td>
<td></td>
<td></td>
<td>Immediate action necessary to alleviate an unexpected situation or sudden occurrence of a serious and urgent nature</td>
<td>Not specified</td>
</tr>
<tr>
<td><strong>Definition of a &quot;measure&quot;</strong></td>
<td>Not specified</td>
<td>Any legally relevant action or omission attributable to the lands or the Federation, regardless of its legal form</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Transport</strong></td>
<td>• Prohibition for boats carrying more than 100 passengers to stopover or stay within territorial seas according to Article 4 of the Decree No. 2020-293 of March 23, 2020 (abrogated by the Decree No. 2020-545 of May 11, 2020); • Prohibition of transportation of people through commercial flights between the mainland and overseas territories and between</td>
<td>Order by Federal Minister of the Interior, Building, and Community: • entry restrictions at Germany's Schengen external borders; • temporary border controls (enforced by police); • travelers without a valid reason to enter Germany were refused entry at internal borders, airports, and seaports</td>
<td>Decree-law No. 6 of February 23, 2020: • suspension of freight and passenger transport services, land, rail, inland waters, and local public, including non-scheduled ones, with the exclusion of the transport of essential and perishable goods and without prejudice to any exceptions provided for by the territorially competent Prefects;</td>
<td>• Royal Decree No. 463/2020 of March 14, 2020 (extending Decree — Royal Decree No. 492/2020 of April 24, 2020); • Royal Decree-Law No. 21/2020 of June 9, 2020, on urgent prevention, containment, and coordination measures to deal with the health crisis caused by COVID-19;</td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
<tbody>
<tr>
<td>overseas territories, except for cases of emergencies, serious justification related to family matters or professional obligation according to Article 5 of the Decree No. 2020-293 of March 23, 2020 (abrogated by the Decree No. 2020-617 of May 22, 2020);</td>
<td>• Disinfection of public transport according to Article 6 of the Decree No. 2020-293 of March 23, 2020 (abrogated by the Decree No. 2020-545 of May 11, 2020)</td>
<td>• suppression of interregional car services and rail, air, and sea transport services, on the basis of actual needs and for the sole purpose of ensuring the minimum essential services</td>
<td>• Order No. PCM/205/2020 of March 10, 2020: o state-owned road, rail, air, and maritime public passenger transport services reduce their total supply of operations; o suspension of international air communication</td>
<td></td>
</tr>
<tr>
<td>Public health</td>
<td>• Requisition of masks stocks for respiratory protection and anti-spray according to Article 1 of the Decree No. 2020-247 of March 13, 2020, and then article 12 of the decree No. 2020-293 of March 23, 2020 (abrogated</td>
<td>• Confiscation and disposal of medical, nursing or sanitary equipment, including raw materials, and medical and nursing care equipment by Land Ministry of Health;</td>
<td>Decree-Law No. 18 of March 17, 2020 (“Cura Italia”): the Government adopted specific measures to empower the production and supply of medical devices and personal protective equipment by increasing the level of</td>
<td>Royal Decree No. 463/2020 of March 14, 2020 (extending Decree — Royal Decree No. 492/2020 of April 24, 2020). The Minister for Health may: • issue the orders necessary to ensure the supply of the market and the operation of the</td>
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<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
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<td>by the Decree No. 2020-545 of May 11, 2020;</td>
<td>• Regulation of protective equipment imports by Federal Government</td>
<td>financing of the standard national health needs</td>
<td>services of the production centers affected by the shortage of products necessary for the protection of public health;</td>
</tr>
<tr>
<td></td>
<td>• Requisition of any health structure and any service or any professional needed for its functioning according to Article 12-1 of the Decree No. 2020-293 of March 23, 2020 (abrogated by the Decree No. 2020-545 of May 11, 2020);</td>
<td></td>
<td></td>
<td>• intervene in and temporarily occupy industries, factories, workshops, holdings, or premises of any kind, including privately owned health centers, services, and establishments, as well as those operating in the pharmaceutical sector;</td>
</tr>
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<td></td>
<td>• Requisition of any planes and professionals necessary to their functioning to guarantee the transit of sanitary products and protection equipment according to Article 12(1) of the Decree No. 2020-293 of March 23, 2020 (abrogated by the Decree No. 2020-545 of May 11, 2020);</td>
<td></td>
<td></td>
<td>• temporarily requisition all types of goods and impose mandatory personal services in cases where this is necessary for the adequate protection of public health in the context of this health crisis;</td>
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<td></td>
<td>• Creation of a system of information to collect personal data, process and exchange it, if needed,</td>
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<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
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<td>without the consent of individuals, to fight the spread of the coronavirus (Article 11 of the Law proroguing the state of health emergency of May 11, 2020, and Decree No. 2020-551 of May 12, 2020)</td>
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<tr>
<td>Education / remote working</td>
<td>• Closing of kindergartens, schools and universities in accordance with Article 4 of the Ministry's Order of March 14, 2020; • Remote work — at the discretion of an employer</td>
<td>• Schools and other educational institutions were closed in all lands from March 13, 2020, onwards; • Distance education</td>
<td>Educational activities in the presence, as well as educational trips, of early childhood education, schools of all levels, universities (except for post-graduate courses connected with the exercise of health professions) have been suspended in the whole national territory, until the end of the school year (Decree of the Council of minister of March 4, 2020)</td>
<td>• Suspension of classroom-based educational activities; • Remote educational activities</td>
</tr>
<tr>
<td>Competent authorities</td>
<td>• The state's representant in the departments / reduction of freedom of movement at certain time and place;</td>
<td>Federal Minister of the Interior, Building, and Community</td>
<td>• Ministry of Health; • Ministry of transport and infrastructure; • Ministry of Education, University, Research;</td>
<td>• Government; • The Minister for Defence; • The Minister for the Interior; • The Minister for Transport, Mobility, and</td>
</tr>
<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
<td>Spain</td>
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<tr>
<td></td>
<td>Prime Minister / closure of external borders, spaces of public gathering such as theaters or bars</td>
<td>Ministry of Labor and Social Policies; Ministry of the Interior</td>
<td>the Urban Development Agenda; The Minister of Health</td>
<td></td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Federal, Land</td>
<td>State (executive)</td>
<td>State (executive)</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Two months or at the same time as the state of health emergency (Public Health Code)</td>
<td>Specified</td>
<td>Yes, with a possibility of prolongation (each measure adopted provides a sunset clause which may be extended within the framework of the state of emergency)</td>
<td>Yes, with a possibility of prolongation</td>
</tr>
<tr>
<td>Containment measures regarding industrial sector</td>
<td>The Law No. 2020-290 deligated the power to adopt ordinances with all necessary measures to the Government</td>
<td>German industry was not subject to general regulations on pandemic control</td>
<td>Decree of the President of the Council of Ministers of March 22, 2020</td>
<td>Royal Decree No. 463/2020 of March 14, 2020 (extending Decree — Royal Decree No. 492/2020 of April 24, 2020)</td>
</tr>
<tr>
<td>Regulatory framework</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Scope</td>
<td>The industrial sector was deemed to keep a normal business activity; Closure of non-essential production activities</td>
<td>The industrial sector was deemed to keep a normal business activity; Closure of non-essential production activities</td>
<td>The industrial sector was deemed to keep a normal business activity; Closure of non-essential production activities</td>
<td>All retail premises and establishments are closed to the public, except for retailers of food, beverages, essential products and goods, pharmacist and healthcare establishments, veterinary centers or clinics, opticians and</td>
</tr>
<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
<td>Spain</td>
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<tr>
<td></td>
<td>Government (Prime Minister)</td>
<td>Federal and land governments</td>
<td>Council of Minister</td>
<td>Government</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Federal, Land</td>
<td>State (executive)</td>
<td>Central</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Yes, with a possibility of prolongation (each measure adopted provides a sunset</td>
<td>Yes, with a possibility of prolongation</td>
</tr>
</tbody>
</table>

- Sellers of orthopedic supplies, hygienic products, press and stationery, automotive fuels, tobacconists, IT and telecommunications supplies, pet food, e-commerce, telephone or postal sales, dry-cleaners, laundromats, and professional home hairdressing;
- The temporary intervention and occupation of industries, factories, installations or premises of any kind is authorized, including privately owned health centers, services and establishments and those pertaining to the pharmaceutical sector.
<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
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</thead>
<tbody>
<tr>
<td>Liability for non-compliance</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Yes, in accordance with the Organic Law No. 4/1981 of June 1, 1981</td>
</tr>
<tr>
<td>Most affected fields</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
</tr>
</tbody>
</table>

**Containment measures regarding on-productive sector**

<p>| Measure                                | Closure of spaces opens to the public, e.g., restaurants, bars, shops, or exhibit centers (Article 1 of the executive order of March 14, 2020, completed by the executive order of March 15, 2020, and then Decree No. 2020-293 of March 23, 2020) | Closure of leisure, cultural, sports and entertainment facilities like bars, theaters, cinemas and museums, fairs, exhibitions, fitness studios, solariums, swimming pools, arcades, casinos, betting shops (CoronaSchVO NRW as of March 22, 2020) | • Suspension of retail commercial activities, except for the food and basic necessities activities;  • Closure of museums and other places of culture;  • Other measures include: closure of restaurants and bar services; suspension of personal services (hairdressers, barbers, beauticians) | The opening to the public of museums, libraries, monuments, archives, and premises or establishments for shows, leisure, or sports, together with any type of festival or public event has been suspended (Royal Decree No. 463/2020 of March 14, 2020 [extending Royal Decree No. 492/2020 of April 24, 2020]) |</p>
<table>
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<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
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</thead>
<tbody>
<tr>
<td><strong>Containment measures regarding population</strong></td>
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<td></td>
</tr>
<tr>
<td><strong>Regulatory framework</strong></td>
<td>Decree No. 2020-260 of March 16, 2020</td>
<td>FIPA</td>
<td>Decree of the President of the Council of Ministers of March 9, 2020</td>
<td>Royal Decree No. 463/2020 of March 14, 2020 (extending Royal Decree No. 492/2020 of April 24, 2020)</td>
</tr>
<tr>
<td><strong>Scope</strong></td>
<td>Lockdown; Ban to social gatherings; Ban to access parks, public areas; A distance of at least one meter from any other person</td>
<td>Quarantine — temporary isolation of people who are infected or suspected of being infected by an infectious disease; Obligatory wearing a mask; Ban on contacts — the obligation of staying in public and private areas only with a certain number of persons and keeping a minimum distance of 1.5 meters; Restrictions on visits to health facilities; Ban on religious services; Lockdown</td>
<td>Lockdown; Ban to social gatherings; Ban to access parks, public areas; A distance of at least one meter from any other person</td>
<td>Restriction of movement; Ban for social gathering; Restriction on close contact (at least 1 meter); Mandatory masks on the public sidewalks, in open-air spaces and in enclosed areas for public use or that are open to the public, as well as in transport</td>
</tr>
<tr>
<td><strong>Competent authorities</strong></td>
<td>Government — the Prime Minister</td>
<td>Federal lands, but usually transferred to the local authorities.</td>
<td>President of the Council of Ministers</td>
<td>Government</td>
</tr>
<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
<td>Spain</td>
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<tr>
<td>Quarantine measures</td>
<td>Quarantine measures are issued at a local level</td>
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</tr>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Federal, lands</td>
<td>State (executive)</td>
<td>State (executive)</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Expires at the same time as the state of health emergency</td>
<td>Vary among lands</td>
<td>Yes, with a possibility of prolongation (date not specified)</td>
<td>Yes, with a possibility of prolongation</td>
</tr>
</tbody>
</table>
| Liability for non-compliance | • Criminal liability of EUR 135;  
• Recidivism — up to EUR 1,500;  
• More than three violations within a month — 6 months in prison and EUR 3,750 of penalty | • Infringements of the restrictions can be sanctioned as an administrative offense from EUR 200 to EUR 25,000;  
• Quarantine order violations — a prison sentence of up to two years | • Administrative contravention from EUR 400 to EUR 3,000;  
• Criminal sanctions were provided for those who failed to comply with the absolute obligation of quarantine as they have been infected with the virus | In accordance with the Organic law No. 4/1981 of June 1, 1981 |

**Support measures for industrial and non-productive sectors**

<table>
<thead>
<tr>
<th>Regulatory framework</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
</table>
| Ordinance No. 2020-323 of March 25, 2020;  
NRW-Emergency-Aid-2020 | • “Cura Italia” (released on March 17, 2020, and converted into law No. 27 of April 24, 2020);  
“Liquidità” (released on March 17, 2020, and converted into Law No. 40 of June 5, 2020); | • Resolution of June 16, 2020, of the State Secretariat for the Economy and Business Support, Ministry of Economic Affairs and Digital Transformation for loans granted to companies and the self-employed; |
<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
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</thead>
</table>
| **Scope** | Industrial sector. Solidarity fund for small companies (ordinance No. 2020-317 of March 25, 2020). Foreign SME can benefit from this fund if it has its tax residency in France | Billion-euro aid program of the Federal Government; State loans; Emergency financial assistance in the form of direct grants to alleviate economic hardship and to secure the existence and continuation of small commercial enterprises, the self-employed, and members of the liberal professions; | The health sector, industrial sector, labor:  
- access to credit;  
- liquidity support, export, internationalization, and investment;  
- incentives and contributions for sanitization and increased safety at work, indemnity of self-employed workers;  
- incentives for workers in the entertainment | Financial aid to companies;  
- Loans to SMEs in the tourism sector and related activities;  
- Promoting the implementation of new business investment projects, particularly for environmental sustainability and digitalization;  
- Financial support to solvent strategic non-financial companies; |
<p>|          |        | “Rilancio” (released on May 19, 2020) | Guarantee Line, approved by the Council of Ministers as of July 3, 2020; Royal Decree-Law No. 25/2020 of July 3, 2020; Royal Decree-Law No. 8/2020 of March 17, 2020; Royal Decree-Law No. 17/2020 of May 5, 2020 |        |</p>
<table>
<thead>
<tr>
<th>Criteria</th>
<th>France</th>
<th>Germany</th>
<th>Italy</th>
<th>Spain</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>• Guarantees and other warranties for bank loans and recapitalizations;</td>
<td>• the possibility for workers who have at least one child under the age of 14 to require the remote working.</td>
<td>• industry and agricultural sector;</td>
<td>• Abroad package of fiscal measures, aid, and measures to make unemployment coverage more flexible for the cultural sector;</td>
</tr>
<tr>
<td></td>
<td>• Restaurants benefit from a reduced VAT rate on food, and in addition, they receive certain tax breaks.</td>
<td>Companies with foreign shares are eligible for support measures as long as they are registered in Italy and pay taxes there</td>
<td></td>
<td>• Suspension of the regime of liberalization of foreign direct investment in Spain in certain strategic sectors affecting public order, public security, and public health (critical infrastructure; critical technologies and dual-use goods; supply of essential inputs, in particular energy; sectors with access to sensitive information; media).</td>
</tr>
<tr>
<td>Foreign participation in the company is irrelevant: the decisive requirement is that the company has its registered head office in Germany</td>
<td></td>
<td></td>
<td>Foreign SME can benefit from this fund if it has its tax residency in Spain</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Competent authorities</th>
<th>Government</th>
<th>Federal Finance and Economics Ministers</th>
<th>Government</th>
<th>Council of Ministers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Federal</td>
<td>State (executive)</td>
<td>State (executive)</td>
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<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
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<tr>
<td>Sunset clause</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
</tr>
<tr>
<td>Support measures for population</td>
<td><strong>Regulatory framework</strong>&lt;br&gt;• Decree No. 2020-568 of May 14, 2020;&lt;br&gt;• Ordinance No. 2020-324 of March 25, 2020;&lt;br&gt;• Decree No. 2020-519 of May 5, 2020</td>
<td>Second Corona Tax Aid Act (as an amendment to the VAT Act)</td>
<td>“Cura Italia”</td>
<td>• Royal Decree-Law No. 9/2020 of March 27, 2020, which adopts complementary measures, in the field of employment, to mitigate the effects of COVID-19; &lt;br&gt;• Resolution of June 16, 2020, of the State Secretariat for the Economy and Business Support, Ministry of Economic Affairs and Digital Transformation for loans granted to companies and the self-employed</td>
</tr>
<tr>
<td>Scope</td>
<td>• Unemployment allowances;&lt;br&gt;• Mechanism of partial unemployment;&lt;br&gt;• Direct State aid</td>
<td>• Cut on Value Added Tax;&lt;br&gt;• Raise of child benefits;&lt;br&gt;• Short-time working allowance</td>
<td>• Allowances;&lt;br&gt;• Mechanism of partial unemployment;&lt;br&gt;• Direct State aid</td>
<td>• Adoption of labor measures to make the procedures for the suspension of contracts and reduction of working hours (ERTEs) due to force majeure more flexible;</td>
</tr>
<tr>
<td>Criteria</td>
<td>France</td>
<td>Germany</td>
<td>Italy</td>
<td>Spain</td>
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<td>Prolongation of leasing contracts;</td>
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<td>Granting loans to self-employed in the</td>
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<td>tourism sector and related activities, as</td>
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<td>well as for the purchase of motorized</td>
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<td>road transport vehicles for professional</td>
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<td></td>
<td>use;</td>
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<td></td>
<td>Ensuring a minimum vital income</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Federal</td>
<td>State (executive)</td>
<td>Central</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
<td>Yes, with a possibility of prolongation</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<tr>
<td><strong>General measures</strong></td>
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</tr>
<tr>
<td><strong>Definition of a “measure”</strong></td>
<td>Not specified</td>
<td>Not specified</td>
<td>Not specified</td>
<td>Not specified</td>
</tr>
<tr>
<td><strong>Transport sector</strong></td>
<td>Not specified</td>
<td>• Wearing face</td>
<td>• A travel ban for</td>
<td>International flights</td>
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<tr>
<td></td>
<td></td>
<td>coverings whilst</td>
<td>foreign nationals</td>
<td>have been significantly</td>
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<tr>
<td></td>
<td></td>
<td>using public</td>
<td>originating from China;</td>
<td>reduced</td>
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<td></td>
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<td>transport in England;</td>
<td>• Travel bans from Iran</td>
<td></td>
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<td></td>
<td></td>
<td>• Advise against all</td>
<td>for foreign nationals</td>
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<td>non-essential travel</td>
<td>and a travel advisory</td>
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<td>warning for areas in</td>
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<td></td>
<td></td>
<td></td>
<td>Italy and South Korea;</td>
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<td></td>
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<td></td>
<td>• Travel bans from</td>
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<td></td>
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<td></td>
<td>European Union countries</td>
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<td></td>
<td>for foreign nationals;</td>
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<td></td>
<td>• Closure of the</td>
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<td></td>
<td>physical United States</td>
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<td></td>
<td>borders with Canada and</td>
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<td></td>
<td>Mexico</td>
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<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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</tr>
<tr>
<td>Public health</td>
<td>Not specified</td>
<td>Procurement of personal protective equipment, improving testing</td>
<td>• Increased infection control; • Environmental surface cleaning; • Use of recommended personal protective equipment; • Optimizing Personal Protective Equipment (PPE) supplies</td>
<td>• International passengers upon arrival are concentrated and placed under a 14-day quarantine at designated places for medical observation at their own costs; • Nucleic acid test</td>
</tr>
<tr>
<td>Education / remote working</td>
<td>Distance education for secondary schools and partial closure of universities due to the spread of COVID-19</td>
<td>• Closure of educational establishments — the Coronavirus Act;</td>
<td>No nationwide school closure, most states ordered the closure of schools shortly after the national emergency</td>
<td>Suspension of work, business, and school classes</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<tr>
<td>Competent authorities</td>
<td>Public Health Agency / issuing recommendations</td>
<td>Government</td>
<td>• Distance education was activated declaration. Several governors announced these closures via press conference, while some states left the details up to local boards of superintendents and educations to handle</td>
<td>• President / Executive emergency powers (including presidential emergency powers); • States / “police powers” — to enforce public health interventions like isolation, quarantine, and other laws to mitigate the spread of an infectious disease like COVID-19</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<td>----------------------------------------------------------------------</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (independent from administration)</td>
<td>Central</td>
<td>President (executive), State, local (e.g., for schools)</td>
<td>State (executive), local (e.g., Wuhan)</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>No</td>
<td>Yes, with a possibility of prolongation</td>
<td>Vary among states</td>
<td>Vary among different localities</td>
</tr>
<tr>
<td>Containment measures regarding industrial sector</td>
<td></td>
<td></td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Coronavirus Act 2020 (for Scotland);</td>
<td>• State level: varies by state</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Public Health Act (Northern Ireland) 1967 (for Northern Ireland).</td>
<td></td>
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</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<tr>
<td></td>
<td></td>
<td>The principal regulations are:</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Health Protection (Coronavirus, Restrictions) (England) Regulations 2020;</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020;</td>
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</tr>
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<td></td>
<td></td>
<td>• Health Protection (Coronavirus, Restrictions) (Scotland) Regulations 2020;</td>
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<tr>
<td></td>
<td></td>
<td>• Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020;</td>
<td></td>
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<tr>
<td></td>
<td></td>
<td>• Health Protection (Coronavirus, Restrictions) (Leicester) Regulations 2020</td>
<td></td>
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</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
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</tr>
<tr>
<td>(for a local lockdown in Leicester)</td>
<td></td>
<td>The industrial sector was deemed to keep a normal business activity</td>
<td>The industrial sector was deemed to keep a normal business activity</td>
<td>The industrial sector was deemed to keep a normal business activity</td>
</tr>
<tr>
<td>Scope</td>
<td>Not specified</td>
<td>The industrial sector was deemed to keep a normal business activity</td>
<td>The industrial sector was deemed to keep a normal business activity</td>
<td>The industrial sector was deemed to keep a normal business activity</td>
</tr>
<tr>
<td>Competent authorities</td>
<td>Not specified</td>
<td>Governments of the 4 nations of the UK separately</td>
<td>The United States Department of Homeland Security Cybersecurity &amp; Infrastructure Security Agency</td>
<td>• State Council / to declare a state of emergency;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Local governments / to assess epidemic risks in each county-based unit, grade risk into low, medium, or high level, and accordingly formulate differentiated measures for epidemic control and restoration of economic and social order</td>
</tr>
<tr>
<td>Level of government</td>
<td>Not specified</td>
<td>National governments (executive)</td>
<td>Federal agency (executive)</td>
<td>State (executive), local</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Not specified</td>
<td>A 6-month expiry clause (with every 21 or 28 days)</td>
<td>Yes</td>
<td>Vary among different localities</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<tr>
<td>Liability for non-compliance</td>
<td>Not specified</td>
<td>Non-compliance with the regulations is a criminal offense. The only punishment is a fine not exceeding level 5 on the standard scale. A level 5 fine is currently £5,000. A person cannot be imprisoned for non-compliance. The £5,000 maximum fine can only be imposed by a court. For repeat offences or for the most serious offences, the fines can rise to a maximum of £10,000</td>
<td>Not specified</td>
<td>Civil, administrative, and/or criminal liabilities</td>
</tr>
<tr>
<td>Most affected fields</td>
<td>Not specified</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
<td>Non-essential production (air transport, education, hospitality, leisure and entertainment, sports and fitness, and tourism)</td>
<td>Non-essential production; (MSMEs or individual commercial households)</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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</tbody>
</table>
| Measures         | Temporary infection control measures at restaurants, coffee shops, bars, canteens, or dining places: | Northern Ireland (original rules) Different rules for different categories of business. The categories and definitions are contained, or implied, in the Health Protection (Coronavirus, Restrictions) Regulations (Northern Ireland) 2020: | - Restaurants are closed to in-person dining. Takeout or delivery services are available (measures vary among states); - Closure of non-essential businesses, including retail businesses, fitness centers, entertainment, and personal service businesses (measures vary among states) | - Prohibition or restriction of the use of relevant equipment and facilities, closing or restricting the use of relevant places, suspending personnel-intensive activities or production and business activities that may cause harm to expand, and take other protective measures (Prevention and Treatment of Infectious Disease Law); - Fairs, cinema shows, theatrical performances are restricted or suspended | Presidential Decree of April 2, 2020, No. 239 “On measures to ensure the sanitary-epidemiological well-being of the population in the Russian Federation in connection with the spread of new coronavirus infection (COVID-19)”:

- development and implementation of a set of restrictive and other measures, in particular, to suspend (limit) the activities of individual organizations located in the relevant territory regardless of their legal form of organization and ownership, as well as individual entrepreneurs

Measures differ from one subject of the
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
</tr>
</thead>
<tbody>
<tr>
<td>accommodation (had to shut down completely. There were minor exceptions, for example, accommodation for a person who had no home to go to); places of worship (had to shut down, subject to a few limited exceptions, for example, funerals).</td>
<td></td>
<td>accommodation</td>
<td></td>
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<tr>
<td><strong>Northern Ireland</strong> (rules as amended)**</td>
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<tr>
<td>The original categories as set out above have changed over time. The general thrust of the changes has been to allow more businesses to open. The changes were all made by way of amendment to the original Regulations.</td>
<td></td>
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<tr>
<td><strong>England</strong> (original rules)**</td>
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</tbody>
</table>

Russian Federation and from the sanitary-epidemiological situation and peculiarities of the spread of COVID-19 in a particular subject of the Russian Federation
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
<th>China</th>
<th>Russia</th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>The same broad categories as Northern Ireland and the same general rules applied in those categories. The English rules were made first and the Northern Ireland rules essentially just copied them.</td>
<td></td>
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<tr>
<td>England [rules as amended]</td>
<td></td>
<td>• Businesses selling food/drink for consumption on-premises (the businesses listed in Part 1 of Schedule 2 to the Health Protection (Coronavirus, Restrictions) (England) Regulations 2020. Food and drink cannot be sold for consumption on the premises. There are exemptions which allow for premises to remain open if the</td>
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<td>Criteria</td>
<td>Sweden</td>
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<tr>
<td>• Businesses that operate a library service (a library service cannot remain open except for orders that it receives remotely and then delivers to its clients);</td>
<td></td>
<td>food and drink are sold for consumption off the premises);</td>
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<tr>
<td>• Non-essential businesses selling goods or providing a service (have to shut down completely and have to cease providing that service);</td>
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<td>• Businesses offering holiday accommodation (have to shut down completely);</td>
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<td>• Places of worship (have to shut down. There are exceptions for</td>
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<tr>
<td>Criteria</td>
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<td>UK</td>
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<td></td>
<td>funerals, childcare operations, and private prayer)</td>
<td>Vary among states</td>
<td></td>
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<tr>
<td>Containment measures regarding population</td>
<td></td>
<td>Prevention and Treatment of Infectious Disease Law</td>
<td></td>
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<tr>
<td>Regulatory framework</td>
<td>Ordinance (2020:162) amending the ordinance (2020:114)</td>
<td>Vary among states</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>• Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020;</td>
<td>Regional authorities’ acts</td>
<td></td>
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<tr>
<td></td>
<td>• Health Protection (Coronavirus Restrictions) (Scotland) Regulations 2020;</td>
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<tr>
<td></td>
<td>• Health Protection (Coronavirus Restrictions) (Northern Ireland) 2020.</td>
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<td></td>
<td>As with Northern Ireland, these rules have been relaxed over time.</td>
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<td></td>
<td>The relaxations in</td>
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<td>Criteria</td>
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<td>USA</td>
<td>China</td>
<td>Russia</td>
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<tr>
<td><strong>Scope</strong></td>
<td>Bans on gatherings of 500 and then 50 people</td>
<td>• Restriction of movement;</td>
<td>• Strict social distancing measures;</td>
<td>• Ban on mass gathering;</td>
<td>• Restriction of movement;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restriction on staying overnight in a house other than your own unless you have a reasonable excuse;</td>
<td>• Face mask requirements;</td>
<td>• Mandatory isolation or quarantine;</td>
<td>• Ban for social gathering;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Lockdown;</td>
<td>• Ban on social gathering;</td>
<td>• All buildings in the district, no matter whether there are confirmed or suspected cases of COVID-19, shall be blocked for 14-day and no residents other than medical professionals or those supplying daily necessities shall enter or leave buildings</td>
<td>• Restriction on close contact [at least 1 meter];</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restriction on public gatherings;</td>
<td>• Stay-at-home orders.</td>
<td>• Mandatory masks in the public indoor premises;</td>
<td>• Self-isolation;</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Restrictions on close contact between individuals (2-meter distance)</td>
<td>All measures vary among states</td>
<td>• Prohibition to visit buildings, structures, and facilities intended for holding public events and recreational areas;</td>
<td>• Recommendation to reduce personal contacts with other citizens, comply with the self-isolation regime;</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
<td>Russia</td>
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<tr>
<td>• Duty to maintain a distance of at least 1.5 meters to other citizens</td>
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<td></td>
<td>(social distance), including in public places and public transport,</td>
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<tr>
<td>• Prohibition to leave the place of residence (stay) (with some</td>
<td></td>
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<td></td>
<td></td>
<td>exceptions);</td>
</tr>
<tr>
<td>• Mandatory use of personal protective equipment for respiratory</td>
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<td></td>
<td></td>
<td></td>
<td>organs (masks, respirators) and hands (gloves);</td>
</tr>
<tr>
<td>• Obligation to inform about the return from abroad</td>
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</tr>
<tr>
<td>Competent authorities</td>
<td>• Government / ban;</td>
<td>National Governments</td>
<td>• Federal level: Centers for Disease Control and Prevention (Department of</td>
<td>• State Council / declare;</td>
<td>President (non-work model);</td>
</tr>
<tr>
<td>• Public Health Agency / issuing recommendations</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Local governments / assess epidemic risks in each</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>• Chief State Doctor (self-isolation);</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
<td>Russia</td>
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</tr>
<tr>
<td>on how to implement the ban</td>
<td></td>
<td></td>
<td>Health and Human Services) issuing recommendations (e.g., social distancing); • States / imposing measures</td>
<td>county-based unit, grade risk into low, medium or high level, and accordingly formulate differentiated measures for epidemic control and restoration of economic and social order</td>
<td>• Regional authorities (Mayor) / take measures</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive and independent)</td>
<td>National</td>
<td>Federal, States</td>
<td>State (executive), local</td>
<td>Federal, regional</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Not specified</td>
<td>Symmetry between all parts of the UK / 6-month expiry clause and a 21/28-day review clause</td>
<td>Not specified</td>
<td>Vary among different localities and sectors</td>
<td>Vary among the regions</td>
</tr>
<tr>
<td>Liability for non-compliance</td>
<td>Not specified</td>
<td>Non-compliance with the regulations is a criminal offense which is normally dealt with by way of a fixed penalty notice</td>
<td>Vary among states</td>
<td>Civil, administrative, and/or criminal liabilities</td>
<td>Administrative and criminal liability, vary among the regions</td>
</tr>
<tr>
<td>Criteria</td>
<td>Sweden</td>
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<tr>
<td>Regulatory framework</td>
<td>Conversion Aid Act (2020:548) and the adhering ordinance was introduced on July 1, 2020 — compensation for businesses for turnover losses and reorientation support, for example, to simplify a shift in production for a company or for a restaurant to direct its activities to take away services. The company needs to have business in Sweden or be approved for a so-called F-tax certificate in the country. Companies registered in certain states that are on the EU list of non-cooperative jurisdictions for tax purposes are not eligible to conversion aid</td>
<td>• Corporate Insolvency and Governance Bill 2020;</td>
<td>• Defense Production Act;</td>
<td>• Financial Support for Prevention and Control of Novel Coronavirus Infection;</td>
<td>• Russian Government Resolution &quot;On measures to support systemically important organizations&quot;;</td>
</tr>
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<td></td>
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<td></td>
<td>• Coronavirus Preparedness and Response Supplemental Appropriations Act (H.R. 6074, Pub. L. 116-123);</td>
<td></td>
<td>• Resolution of the Government of the Russian Federation No. 409 of April 2, 2020 &quot;On measures to ensure sustainable development of the economy&quot;;</td>
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<td></td>
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<td></td>
<td>• Coronavirus Aid, Relief, and Economic Security Act (H.R. 748, Pub. L. 116-136)</td>
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<td>Criteria</td>
<td>Sweden</td>
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<td>• Government Decision No. 685 of May 15, 2020;</td>
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<td>• Government Decision No. 696 of May 16, 2020;</td>
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<tr>
<td>• Government Decision No. 1286-r of May 16, 2020;</td>
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<td>• Resolution of the Government of the Russian Federation No. 658 of May 12, 2020;</td>
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<tr>
<td>• Resolution of the Government No. 576 of April 24, 2020;</td>
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<td>• List of Instructions of the President following the results of a meeting with</td>
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<tr>
<td>Criteria</td>
<td>Sweden</td>
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</tbody>
</table>
| **Scope** | • Industrial sector — loan guarantee schemes;  
  • Increase in the part-time work allowance with support from the government (temporary). Companies with foreign shares are eligible for support measures as long as they are registered in Sweden and pay taxes there.  
  • Various statutory obligations in relation to wrongful trading, company filings, AGMs, and general meetings (amongst other things) were relaxed to provide companies and other corporate bodies with greater flexibility in the midst of the current crisis;  
  • COVID-19 Corporate Finance Facility;  
  • Coronavirus Large Business Interruption Loan Scheme;  
  • Assistance to the healthcare system dealing with surge capacity in response to the coronavirus outbreak by ensuring the production and distribution of ventilators and personal protective equipment;  
  • All meat and poultry processors continue operations;  
  • Emergency funding for the research and development of vaccines and treatment, public health funding to support the healthcare system;  
  • Preferential interest rate credit;  
  • Interest subsidies;  
  • Credit loans for small and micro-enterprises;  
  • Extended time limit for guarantee recovery or enterprises’ waiver of repayment obligation;  
  • Preferential loans to key enterprises guaranteeing epidemic prevention and control;  
  • Force majeure certificates for enterprises;  
  • Preferential loans to key enterprises guaranteeing epidemic prevention and control;  
  • Force majeure certificates for enterprises;  
  • Enterprisers from the affected sectors, as well as socially oriented NPOs, can obtain a loan;  
  • Small and medium entrepreneurs can receive free financial assistance;  
  • Interest-free wage loans are provided for companies in the affected industries;  
  • Loans at a rate of 8.5% and microcredits for SMEs have been extended;  
  • Entrepreneurs are granted a deferred payment of rent; |
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<tr>
<th>Criteria</th>
<th>Sweden</th>
<th>UK</th>
<th>USA</th>
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<th>Russia</th>
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</thead>
<tbody>
<tr>
<td>• Bounce Back Loan Scheme (BBLS) provides financial support to businesses affected;</td>
<td></td>
<td>• response efforts of state and local agencies, medical supplies for surge capacity, loans for small businesses, and funds to assist in the global efforts to combat COVID-19;</td>
<td></td>
<td>• reducing inspection and quarantine costs, and increasing export credit insurance premium subsidies (Zhejiang Province);</td>
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<tr>
<td>• Coronavirus Business Interruption Loan Scheme supports SMEs with an annual turnover of up to £45 million with access to £5 million of finance in the form of term loans, overdrafts, invoice finance, and asset finance facilities for up to six years;</td>
<td></td>
<td>• Aid package providing funding for testing, aid to health care providers, and a second round of funding for small businesses through the paycheck protection loan program through the Small Business Administration;</td>
<td></td>
<td>• Exemption of MSMEs from payment of social insurance premiums for maximum 5 months;</td>
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</tr>
<tr>
<td>• Coronavirus-related funding schemes.</td>
<td></td>
<td>• Extensive monetary support for small businesses.</td>
<td></td>
<td>• Social insurance premiums of large enterprises may be levied in half for maximum 3 months (Province Hubei excluded).</td>
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<tr>
<td>All VAT-registered UK businesses are automatically eligible without application required</td>
<td></td>
<td>Companies with foreign shares are eligible for support measures as long as they are registered in the USA and pay taxes there</td>
<td></td>
<td>At both national and local levels, most support measures do not make a distinction between enterprises with foreign shares and Chinese companies. In Shanghai, it was even particularly emphasized that foreign-invested or</td>
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<td>payments on state, municipal, and private property.</td>
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<td>Criteria</td>
<td>Sweden</td>
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<td>owned enterprises will be supported by the national regime in connection with COVID-19 related support measures</td>
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<tr>
<td>Competent authorities</td>
<td>Public Health Agency / issuing recommendations</td>
<td>Government</td>
<td>President, states</td>
<td>Central and local governments</td>
<td>Government, regional authorities</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive)</td>
<td>Central</td>
<td>Federal, States</td>
<td>State (executive), local</td>
<td>Federal, regional</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Yes, temporary</td>
<td>Yes, with a possibility of prolongation</td>
<td>Vary among states</td>
<td>Vary among different localities</td>
<td>In most cases, the support measures are taken for a fixed period, either during the restrictive measures (3 to 6 months) or until the end of 2020</td>
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<tr>
<td>Support measures for population</td>
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<td></td>
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<td></td>
<td>• Family Medical Leave Act (amended by FFCRA);</td>
<td>• Emergency Paid Sick Leave Act</td>
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<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<tr>
<td><strong>Scope</strong></td>
<td>• Facilitating people’s stay at home if they or their children are sick (mainly temporary);</td>
<td>• Measures taken in respect of personal loans and credit card debt;</td>
<td>• Free coronavirus testing;</td>
<td>• Reduction of housing rent, encouragement of loan support and deferred interest payment, delay of tax payment, and reduction of social security payment;</td>
<td>• Resolution of the Government of the Russian Federation No. 844 of June 10, 2020, “On introducing amendments to certain acts of the Government of the Russian Federation”, etc.</td>
</tr>
<tr>
<td></td>
<td>• Permanent changes in the Social Insurance Code to give the government a mandate to make decisions regarding parental allowance, sickness benefits, and disease carrier benefits</td>
<td>• Protection of tenants from eviction;</td>
<td>• Extended family medical leave;</td>
<td>• Reduced financial costs for treatment;</td>
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<tr>
<td></td>
<td></td>
<td>• Coronavirus Job Retention Scheme allowing businesses to place employees on a temporary leave of absence (known as furlough)</td>
<td>• Paid sick leave for workers;</td>
<td>• Employees who work as normal shall be paid no less than the local minimum wages;</td>
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<td></td>
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<td>• Expanded unemployment benefits;</td>
<td>• The employer shall subsidize living expenses of the</td>
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<td>• Extensive monetary support for small businesses and direct payments to eligible Americans;</td>
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<td>• Federal student loan repayments were suspended without</td>
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<td></td>
<td>• The amount of unemployment benefit was increased and the period of unemployment benefit was extended by 3 months, but not later than October 1, 2020;</td>
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<td></td>
<td></td>
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<td></td>
<td>• Unemployment benefits are paid to those who lose their job after March 1, 2020, for a maximum period not exceeding 3 months,</td>
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<tr>
<td>Criteria</td>
<td>Sweden</td>
<td>UK</td>
<td>USA</td>
<td>China</td>
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<td>interest until January 30, 2021 employees who are unable to work as normal, the specific standards are set by provincial governments, ranging from 60% to 100% of local minimum wages but not later than October 1, 2020; Increase of child benefits</td>
</tr>
<tr>
<td>Competent authorities</td>
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<td></td>
<td>Government; Public Health Agency</td>
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<tr>
<td></td>
<td>Government</td>
<td></td>
<td></td>
<td></td>
<td>Congress and the President (signing act into a law) State of Council Government, regional authorities</td>
</tr>
<tr>
<td>Level of government</td>
<td>State (executive and independent)</td>
<td>Central</td>
<td>Federal</td>
<td>State (executive), local</td>
<td>Federal, regional</td>
</tr>
<tr>
<td>Sunset clause</td>
<td>Temporary and permanent</td>
<td>Yes</td>
<td>Yes</td>
<td>Vary among different localities</td>
<td>Yes, vary among regions</td>
</tr>
</tbody>
</table>
### Table 5. Response to the COVID-19 Pandemic by Moscow, Moscow Oblast, St. Petersburg, The Republic of Tatarstan, Nizhny Novgorod Oblast

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
</tr>
</thead>
</table>
| State authority / competence | Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement
1050 | Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement. | Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement. | Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement. | Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement. |
| Legal acts                   | - The Decree of the Mayor of Moscow No. 12-UM of March 5, 2020, "On the introduction of a high alert mode" due to the threat of | - The Resolution of the Governor of Moscow Oblast No. 108-PG of March 12, 2020, "On the introduction of the high alert mode in Moscow Oblast for | - The Resolution of the Government of St. Petersburg No. 121 of March 13, 2020, "On measures to prevent the spread of the novel | - The Regulation of the President of the Republic of Tatarstan of March 19, 2020, No. 129 "On the introduction of the high alert | - The Decree of the Governor of Nizhny Novgorod Oblast No. 27 of March 13, 2020 "On the introduction of the high alert mode" |

1049 The table shows the first response measures of the subjects of the Russian Federation to the spread of coronavirus infection.

1050 Decree of the President of the Russian Federation No. 239 of April 2, 2020, "Concerning measures ensuring the sanitary and epidemiological welfare of the population in the Russian Federation due to the spread of the novel coronavirus infection (COVID-19)".
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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</thead>
</table>
| spreading of the novel coronavirus infection in Moscow (2019-nCoV); | administrative bodies and forces of the Moscow Oblast system of emergency prevention and response and some measures to prevent the spread of novel coronavirus infection (COVID-19) on the territory of Moscow Oblast; | coronavirus infection in St. Petersburg (COVID-19)"; | mode for the administrative bodies and forces of the territorial subsystem of emergency prevention and response of the Republic of Tatarstan”; | due to the spread of the novel coronavirus infection (COVID-19)”;
<p>| • The Resolution of the Moscow Government No. 212-PP of March 24, 2020 “On economic support measures under conditions of high alert mode” | • The Resolution of the Governor of Moscow Oblast No. 132-PG of March 18, 2020, “On additional risk mitigation measures”; | • The plan of priority measures (actions) to ensure the sustainability of the St. Petersburg economy amid the deteriorating economic environment due to the spread of the novel coronavirus infection (COVID-19); | • The Resolution of the Cabinet of Ministers of the Republic of Tatarstan No. 208 of March 19, 2020, “On measures to prevent the spread of the novel coronavirus infection in the Republic of Tatarstan”; | • The Decree of the Governor of Nizhny Novgorod Oblast No. 53 of April 7, 2020, “On measures to support organizations and individuals affected by the spread of the novel coronavirus infection (COVID-19)” |
| • The Resolution of the Governor of Moscow Oblast No. 116-RG of April 3, 2020, “On the establishment of the interministerial operation headquarters to increase sustainability of the | • The Regulation of the Governor of Moscow Oblast No. 116-RG of April 3, 2020, “On the establishment of the interministerial operation headquarters to increase sustainability of the | • The plan of additional measures (actions) (the second set of support measures) to ensure the sustainability of the St. Petersburg economy amid the deteriorating economic environment due to the spread of the | • The Resolution of the Cabinet of Ministers of the Republic of Tatarstan No. 240 of March 31, 2020, “On measures to |</p>
<table>
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<th>Criteria</th>
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<th>Moscow Oblast</th>
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<td></td>
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<td>Moscow Oblast economy”</td>
<td>novel coronavirus infection (COVID-19)</td>
<td>implement the Resolution of the Cabinet of Ministers of the Republic of Tatarstan No. 208 of March 19, 2020, “On measures to prevent the spread of the novel coronavirus infection in the Republic of Tatarstan”</td>
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<tr>
<td>Terms and definitions</td>
<td>• High alert mode; • Stay-at-home (if there is a resolution of the Chief State Sanitary Doctor of the Russian Federation, the Head of the Federal Service for Supervision of Consumer Rights Protection and Human Welfare); • Self-isolation for citizens (aged over 65; citizens who arrived from abroad; citizens suffering from certain diseases). The Resolution No. 108-PG does not contain provisions which define these terms</td>
<td>• High alert mode; • Self-isolation (for example, for persons arriving at the Russian Federation); • Staying at home, self-isolation (for citizens aged over 65 and citizens suffering from certain diseases). The Regulation No. 129 and the Resolution No. 208 do not contain provisions which define these terms</td>
<td>• Stay-at-home (if there is a resolution of the Chief State Sanitary Doctor of the Russian Federation, the Head of the Federal Service for Supervision of Consumer Rights Protection and Human Welfare); • Self-isolation for citizens (aged over 65; citizens who arrived from abroad; citizens suffering from certain diseases). The Decree No. 27 does not contain provisions which define these terms</td>
<td>• High alert mode; • Self-isolation (for example, for persons staying on the territory of the Russian Federation, persons over 65); • Isolation. The Decree No. 27 does not contain provisions which define these terms</td>
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<td>Criteria</td>
<td>Moscow</td>
<td>Moscow Oblast</td>
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<td>Nizhny Novgorod Oblast</td>
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<td>arrived from abroad; citizens who live together with self-isolated citizens; citizens with a suspected novel coronavirus infection, as well as infected.</td>
<td></td>
<td>who live together with self-isolated citizens; citizens with a suspected novel coronavirus infection, as well as infected.</td>
<td>The Resolution No. 121 does not contain provisions which define these terms</td>
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<td></td>
<td>The Decree No. 12-UM does not contain provisions which define these terms</td>
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<tr>
<td><strong>Regulation on the expiration</strong></td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established but the wording “until the sanitary and epidemiological situation improves” is used</td>
<td>Regulation on the expiration is not established</td>
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<tr>
<th>Criteria</th>
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<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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</thead>
<tbody>
<tr>
<td>Restrictive measures concerning industrial</td>
<td>• Prohibition of all sports, entertainment, public, and other mass</td>
<td>• Prohibition of all sports, physical training, entertainment, public, and other mass events on the</td>
<td>• Suspension of the work of retail facilities; 1051</td>
<td>• Prohibition of any leisure, entertainment, cultural, physical culture, sports,</td>
<td>• Prohibition of all mass events (sports, entertainment, business, public, etc.) on</td>
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<tr>
<td>and non-production sectors</td>
<td>events in the city of Moscow;</td>
<td>territory of Moscow Oblast;</td>
<td>• Suspension of the regular transportation of passengers and baggage by road and urban land electric transport along municipal and adjacent interregional routes of regular transportation;</td>
<td>exhibition, educational, advertising, and other similar events with the physical presence of people, as well as the provision of appropriate services, in particular, in parks of culture and rest, shopping and entertainment centers, amusement parks and other places of mass gathering;</td>
<td>the territory of the Nizhny Novgorod Oblast with the physical presence of people;</td>
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<tr>
<td></td>
<td>• Suspension of all leisure, entertainment, cultural events, physical</td>
<td>• Suspension of the work of restaurants, cafes, canteens, snack bars, bars, pubs, and other catering</td>
<td>• Suspension of the work of retail facilities (except for food delivery to houses,</td>
<td>• Prohibition for the civil registry authorities of Nizhny Novgorod Oblast to conduct state registration of marriage in a solemn ceremony, subject to restrictions on simultaneous presence: in the halls of the state registration of</td>
<td>• Prohibition for the civil registry authorities of Nizhny Novgorod Oblast to conduct state registration of marriage in a solemn ceremony, subject to restrictions on simultaneous presence: in the halls of the state registration of</td>
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<tr>
<td></td>
<td>training activities, sports events, exhibition arrangements, educational, advertising, and other similar events with the physical presence of people, as well as the provision of appropriate services, in particular in parks</td>
<td>enterprises (except for take-out services without the visiting of the premises of such facilities by citizens, as well as food delivery services);</td>
<td>• suspension of the work of retail facilities; 1051</td>
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<td>• Suspension of the work of retail facilities (except for food delivery to houses,</td>
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<td></td>
<td></td>
<td>• Suspension of the work of restaurants, cafes, canteens, snack bars, bars, pubs, and other catering</td>
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<tr>
<td></td>
<td></td>
<td>establishments, except for food delivery to houses,</td>
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</table>

1051 With the exception of pharmacies, retail facilities where contracts for the provision of communication services and the sale of communication means related to these services are concluded, in particular mobile communication facilities, retail facilities for periodicals, retail facilities for motor vehicles (by appointment), retail facilities for motor fuel, filling stations for charging electric vehicles, retail facilities for tobacco products, retail facilities for seeds and fertilizers, specialized retail facilities for furniture (with the exception of retail facilities located in buildings of shopping and entertainment centers, shopping centers), specialized shopping centers where exclusively retail furniture trading is carried out, as well as retail facilities related to the sale of exclusively non-food essential goods and(or) food products.
<table>
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<tr>
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<tbody>
<tr>
<td></td>
<td>of culture and rest, shopping and entertainment centers, amusement parks and other places of mass gathering;</td>
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<td></td>
<td>• Suspension of the work of restaurants, cafes, canteens, snack bars, bars, pubs, and other public catering establishments, except for take-out services without visiting the premises of such facilities by citizens, as well as food delivery service;</td>
<td></td>
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<td></td>
<td>• Suspension of the work of beauty salons, spa and massage salons, sun parlors, baths, saunas, and other facilities where such services are provided with the pharmacies and pharmacy centers, retail facilities, in which contracts for the provision of communication services are concluded and the means of communication associated with such services are sold (including mobile phones, tablets), specialized retail facilities that sell pet products, and retail facilities related to selling food products and (or) non-food essential goods, and except for distance selling of goods, in particular, with the condition of delivery;</td>
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<td></td>
<td>• Suspension of the work of beauty salons, spa, and massage salons, sun parlors, saunas, and other facilities where such services are provided with the pharmacies and pharmacy centers, retail facilities, in which contracts for the provision of communication services are concluded and the means of communication associated with such services are sold (including mobile phones, tablets), specialized retail facilities that sell pet products, and retail facilities related to selling food products and (or) non-food essential goods, and except for distance selling of goods, in particular, with the condition of delivery;</td>
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<td></td>
<td>• Prohibition of all theatrical and entertainment, cultural and educational, entertainment, sports, and other mass events with more than 1,000 participants within the territory of St. Petersburg;</td>
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<td></td>
<td>• Temporary suspension of booking of places, reception and accommodation of citizens in boarding houses, rest homes, health resort organizations (sanatoriums), health and wellness camps for children all-year-round, and other facilities of sanatorium treatment and marriage in a solemn ceremony — assuming 1 person per 10 square meters area of the hall, but no more than 10 people, including the host of the ceremony; in open areas for the ceremony;</td>
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<td></td>
<td>• Temporary closure of such leisure facilities as night clubs (discos), dance floors, hookah bars, drinking establishments (cocktail lounges, bars, and beer bars with a predominant service of alcoholic beverages), food areas located in shopping and entertainment centers, children’s playrooms,</td>
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<td>Criteria</td>
<td>Moscow</td>
<td>Moscow Oblast</td>
<td>St. Petersburg</td>
<td>The Republic of Tatarstan</td>
<td>Nizhny Novgorod Oblast</td>
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<td>physical presence of a person, except for services provided remotely, in particular, the delivery services; • Suspension of the work of clubs and sections within the framework of the “Moskovskoe dolgoletie” program, organization of recreation for citizens, and other similar events</td>
<td>other facilities where similar services are provided with the physical presence of people; • The legal entities and individual entrepreneurs shall ensure the organization of the working regime for employees, in particular, necessary disinfection of contact surfaces (furniture, office equipment, etc.) in all rooms during the day; use of air disinfection equipment in the premises; availability of disinfectants for cleaning premises and hands; restriction of foreign business trips; use of audio and video, intercom for production meetings and solving various</td>
<td>recreation on the territory of St. Petersburg</td>
<td>departments of integrated social service centers, as well as providing rehabilitation services to disabled people, citizens aged over 65, and children with disabilities; • Restriction of the inter-municipal transportation of passengers and baggage (with exception of two routes); • Transportation of goods from the Republic of Tatarstan as well as within its territory is only allowed if there is a certificate issued by the sender organization in the form established by the Cabinet of Ministers</td>
<td>theaters, operas, music halls, cinemas, concert halls, amusement rides, and other public areas and facilities for recreation and entertainment; • Suspension of the operation of retail trade facilities, except for pharmacies and pharmacy points, as well as retail sales of food products (in stores, markets, fairs, as well as on the street in industrial packaging) and (or) non-food essential goods; beauty salons (including hairdressers), spa, beauty and massage salons, tanning salons, baths, saunas,</td>
<td></td>
</tr>
<tr>
<td>Criteria</td>
<td>Moscow</td>
<td>Moscow Oblast</td>
<td>St. Petersburg</td>
<td>The Republic of Tatarstan</td>
<td>Nizhny Novgorod Oblast</td>
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<td></td>
<td>issues (if technically possible)</td>
<td>of the Republic of Tatarstan, etc.</td>
<td>swimming pools, fitness centers, and other physical culture facilities, water parks and other facilities where such services are provided with the full-time presence of citizens, etc.</td>
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<td></td>
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</tbody>
</table>

**Liability**

Administrative liability is established in the Administrative Code of the city of Moscow\(^{1052}\) for violating the requirements of laws and regulations aimed at introducing and

Administrative responsibility is established in the Law of Moscow Oblast\(^{1053}\) for violating the requirements of laws and regulations of Moscow Oblast aimed at

Administrative responsibility is established in the Law of St. Petersburg\(^{1054}\) for violating the requirements of laws

Administrative responsibility is established in the Law of the Republic of Tatarstan\(^{1055}\) for violating the requirements of laws

Administrative liability is established for violation of the requirements of regulatory legal acts of Nizhny Novgorod Oblast in accordance with the


\(^{1055}\) The Law of the Republic of Tatarstan No. 17-ZRT of April 24, 2020, “On amendments to the Code of the Republic of Tatarstan on administrative offenses” and the Law of the Republic of Tatarstan ‘On granting state powers of the Republic of Tatarstan to local authorities of municipalities in the Republic of Tatarstan to determine the list of officials who are authorized to draw up reports on administrative offenses’”. Article 1.
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
</tr>
</thead>
<tbody>
<tr>
<td>ensuring the high alert mode in the city of Moscow (Article 3.18.1.)</td>
<td>introducing and ensuring the high alert mode within the territory of Moscow Oblast</td>
<td>and regulations of St. Petersburg</td>
<td>and regulations of the Republic of Tatarstan</td>
<td>Administrative Code of the Russian Federation. The list of officials of the regional executive authorities who are authorized to draw up reports on administrative offenses has been approved 1056</td>
<td></td>
</tr>
</tbody>
</table>

**Restrictive measures against the population**

- Mandatory digital passes to move within the territory of the city of Moscow 1057;
- Mandatory use of individual protective devices for respiratory organs (masks, etc.);
- Self-isolation (for those who arrived in the Russian Federation and those over 65 years of age), prohibition to leave;
- Prohibition on visiting public events, parks, gardens, mini-parks;
- Prohibition on visiting the premises of enterprises;
- Self-isolation for citizens over the age of 65, as well as citizens with diseases;
- Mandatory use of personal respiratory protection equipment (masks, etc.).

1056 The Decree of the Governor of Nizhny Novgorod Oblast No. 45 of March 31, 2020, "On amendments to the Decree of the Governor of Nizhny Novgorod Oblast No. 27 of March 13, 2020".

1057 The Law of St. Petersburg No. 207-44 of April 8, 2020, "On amendments to the Law of St. Petersburg 'On administrative offenses'".

1059 The Resolution of the Cabinet of Ministers of the Republic of Tatarstan No. 240 of March 31, 2020, "On measures to implement the Resolution of the Cabinet of Ministers of the Republic of Tatarstan No. 208 of March 19, 2020, 'On measures to prevent the spread of the novel coronavirus infection in the Republic of Tatarstan'".
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
</tr>
</thead>
<tbody>
<tr>
<td>respiration and hands (gloves) while in public transport when visiting shopping facilities not closed for visiting; at railway transport infrastructure facilities; while visiting buildings, constructures (premises)</td>
<td>the place of residence (stay); • Maintaining a social distance of at least 1.5 meters; • Mandatory use of personal respiratory protection equipment (masks, respirators) in public areas; • Restrictions on visiting religious sites, tourism and recreation, travel</td>
<td>organizations by individuals; • Self-isolation for citizens aged over 65; • Maintaining a social distance of at least 1.5 meters; • Prohibition to leave the place of residence (stay); • Recommendation to abstain from trips to (through) the territory of St. Petersburg; • Recommendation to abstain from trips outside the Russian Federation and within the territory of subjects of the Russian Federation in which the novel coronavirus;</td>
<td>• Mandatory use of personal respiratory protection equipment (masks, respirators) and hands (gloves); • Maintaining a social distance of at least 1.5 meters; • Prohibition to leave the place of residence (stay); • Self-isolation for 14 days in case of stay in the Republic of Tatarstan from another subject of the Russian Federation</td>
<td>• Mandatory use of personal respiratory protection equipment (masks, respirators) and hands (gloves); • Maintaining a social distance of at least 1.5 meters; • Self-isolation for 14 days in case of stay in Nizhny Novgorod Oblast from another subject of the Russian Federation</td>
<td></td>
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</table>

1058 Except for employees who are not covered by the Decree of the President of the Russian Federation No. 206 of March 25, 2020, “On declaring the non-working days in the Russian Federation”.

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<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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<tbody>
<tr>
<td>Regulation on the expiration</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established</td>
<td>The sunset provision for certain measures is established</td>
<td>The sunset provision is not established but the wording “until the sanitary and epidemiological situation improves” is used</td>
<td>Regulation on the expiration is not established</td>
</tr>
<tr>
<td>Liability</td>
<td>Administrative fine in the amount of RUB 4,000. For committing an offense repeatedly or using a vehicle — a fine of RUB 5,000 (^{1060})</td>
<td>Administrative fine in the amount of RUB 4,000. For committing an offense repeatedly or using a vehicle — a fine of RUB 5,000 (^{1061})</td>
<td>Administrative fine in the amount of RUB 4,000. For committing an offense repeatedly or using a vehicle — a fine of RUB 5,000 (^{1062})</td>
<td>An administrative fine in the amount of RUB 1,000–4,000. For committing an offense repeatedly or using a vehicle — a fine of RUB 5,000 (^{1063})</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Nizhny Novgorod Oblast in accordance with the Administrative Code of the Russian Federation. The list of officials of the regional executive authorities who are</td>
</tr>
</tbody>
</table>

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\(^{1063}\) The Code of the Republic of Tatarstan on administrative offenses No. 80-ZRT of December 19, 2006 (as amended as of April 24, 2020).
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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</thead>
<tbody>
<tr>
<td>Support measures for industrial and non-production sectors</td>
<td>• Extension of the deadline for the settlement of advance payments of property tax and land tax for the 1st quarter of 2020; • Extension of the deadline for the payment of trade tax for the 1st quarter of 2020; • Exemption from rent, rental payment deferral, exemption from paying 50% of the rental amount; • Economic support of up to 8% per annum on a loan to SMEs from Moscow’s budget;</td>
<td>• Expansion of the Microfinance Fund for SMEs by RUB 200 million; • Reduction of the average loan interest rate for SMEs to 6% per annum and the provision of microloans with the principal and interest repayment deferral; • Expansion of the Guarantee Fund of Moscow Oblast; • Increase in the subsidies to reimburse equipment purchase costs from 30% to 50% for SMEs and individual entrepreneurs; • Increase in compensation payments to up to</td>
<td>• Financial, credit, tax, and administrative support measures; • Exempting certain categories of tenants from rent; • Preferential “salary” loans; • Restructuring, loan payment deferral for SMEs; • Financial assistance to companies from affected industries in providing material assistance to employees, etc.</td>
<td>A set of programs with total funding of RUB 1.3 billion; • Support for economic sectors at risk (ensuring a possibility of participation in federal support); • Support for SMEs (suspension of inspections, temporary rent payment deferral, etc.); • Subsidies to partially reimburse those SMEs that do not carry out activities recognized at the federal level as the “most affected”, but whose turnover has been reduced by</td>
<td>• Allocation of RUB 100 million from the budget of Nizhny Novgorod Oblast for preferential loans to SMEs; • Concessional loans, etc.</td>
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<tr>
<td>Criteria</td>
<td>Moscow</td>
<td>Moscow Oblast</td>
<td>St. Petersburg</td>
<td>The Republic of Tatarstan</td>
<td>Nizhny Novgorod Oblast</td>
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<tr>
<td>• 50% reduction in payments under contracts for sales activities in a non-stationary retail facility (in the lobbies and subway passages), etc.</td>
<td>80% to manufacturers of masks and disinfectants;</td>
<td>• Issuance of Force Majeure Certificates by the Chamber of Commerce and Industry of Moscow Oblast to entrepreneurs that will allow them to postpone the fulfillment of contractual obligations and avoid penalties;</td>
<td>• Deferral of rent for the use of immovable property owned by Moscow Oblast, as well as land plots owned by Moscow Oblast, or those, state more than 30 percent compared to the average monthly turnover in 2019, and also saved the number of jobs by at least 90 percent compared to March 2020 for actual and documented costs associated with the payment of interest under loan agreements</td>
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<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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</thead>
</table>
| Support measures for population              | • Additional payment for each child under the age of 3;  
• Increase in unemployment compensations;  
• Allowance for unemployed citizens for their minor children;  
• Abolition of payment for major repairs;  
• Increasing the amount of allowance for children aged 3–7;  
• One-time social material assistance to the residents of Moscow over the age of 65; | • One-time social financial support to citizens over the age of 65, as well as citizens with particular health conditions;  
• Social material payments to citizens considered unemployed as prescribed by law;  
• Social support to certain categories of citizens (families with disabled children with an average income exceeding the minimum subsistence level);  
• Incentive payments to employees participating in and providing | • One-time social financial support to citizens of retirement age who are self-isolating;  
• Monthly monetary payments to families whose income does not exceed the minimum subsistence level for each child aged 3–7, etc. | • Monetary payments for the fare, child allowance;  
• Ensuring the work of volunteers for the delivery of medicines, food, and essential goods to certain categories of citizens and the operation of respective hotlines;  
• Incentive payments to employees of state inpatient social service organizations for special working conditions and additional workload, provision of social services to citizens who have | • Targeted state social support on the basis of a social contract (as part of the project to enhance citizens’ real incomes and reduce poverty by half by 2024);  
• Additional payments to medical staff, etc. |

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<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
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<th>Nizhny Novgorod Oblast</th>
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</thead>
<tbody>
<tr>
<td>• Material incentives for medical staff and incentive measures for social service workers for special working conditions and additional workload, etc.</td>
<td></td>
<td>medical assistance to citizens who have been diagnosed with novel coronavirus infection, etc., for special working conditions and additional workload</td>
<td></td>
<td>been diagnosed with novel coronavirus infection and to people at risk of contracting the novel coronavirus infection, etc.</td>
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</tbody>
</table>
### TABLE 6. RESPONSE TO THE COVID-19 PANDEMIC BY IRKUTSK OBLAST, KALININGRAD OBLAST, KRASNODAR KRAI, PRIMORSKY KRAI, KHABAROVSK KRAI

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Irkutsk Oblast</th>
<th>Kaliningrad Oblast</th>
<th>Krasnodar Krai</th>
<th>Primorsky Krai</th>
<th>Khabarovsk Krai</th>
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</thead>
<tbody>
<tr>
<td><strong>State authority / competence</strong></td>
<td>Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement</td>
<td>Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement</td>
<td>Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement</td>
<td>Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement</td>
<td>Provides for the possibility of establishing restrictive and other measures by acts of senior officials (heads of the supreme executive bodies) of the subjects of the Russian Federation, as well as the introduction of a special order of movement</td>
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</tbody>
</table>

1066 The table shows the first response measures of the subjects of the Russian Federation to the spread of coronavirus infection.
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Irkutsk Oblast</th>
<th>Kaliningrad Oblast</th>
<th>Krasnodar Krai</th>
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<th>Khabarovsk Krai</th>
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<tbody>
<tr>
<td>Criteria</td>
<td>Irkutsk Oblast</td>
<td>Kaliningrad Oblast</td>
<td>Krasnodar Krai</td>
<td>Primorsky Krai</td>
<td>Khabarovsk Krai</td>
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<td>for Immovable Property Owned by Primorsky Krai</td>
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<td>of the List of Executive Authorities of Khabarovsk Krai and Their Officials Entitled to Draw Up Reports on Administrative Offenses Provided for by Article 20.6.1 of the Code of Administrative Offences of the Russian Federation;</td>
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<td>The plan of &quot;Priority Measures to Support Small and Medium-Sized Businesses of Khabarovsk Krai in</td>
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<td>Criteria</td>
<td>Irkutsk Oblast</td>
<td>Kaliningrad Oblast</td>
<td>Krasnodar Krai</td>
<td>Primorsky Krai</td>
<td>Khabarovsk Krai</td>
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<td>the Fields of Activity Most Affected Given the Deterioration in the Economic Situation in Connection with the Spread of Novel Coronavirus Infection”</td>
</tr>
<tr>
<td>Terms and definitions</td>
<td>• Isolation (for persons with ARVI symptoms, for employees and students with signs of an infectious disease (fever, cough, etc.), as well as for persons involved in work on a rotational basis for seasonal work);</td>
<td>• Isolation at home or an observation facility (within 14 days from the date of return to the Russian Federation). Isolation here means being in a separate room to prevent contact with family members and other persons who are not subjected to isolation;</td>
<td>• Isolation (within 14 days from the date of return to the Russian Federation);</td>
<td>• Extraordinary and unavoidable circumstance;</td>
<td>• High alert mode;</td>
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<td></td>
<td>• Self-isolation (for example, for those staying in the territory of the Russian Federation, persons over 65). Decree No. 279-ug does not contain provisions which define these terms</td>
<td>• Self-isolation at the place of residence (for citizens over 65, as well as citizens with diseases)</td>
<td>• Self-isolation (for citizens over 65, as well as for citizens with: diseases of the endocrine system (insulin-dependent diabetes mellitus), respiratory organs, circulatory system, genitourinary system (chronic kidney disease, stages 3–5); transplanted organs and tissues, malignant</td>
<td>• Isolation (for people with ARVI symptoms);</td>
<td>• Self-isolation (for example, for those staying in the territory of the Russian Federation, persons over 65 years of age). Order No. 120 and Resolution No. 97 do not contain provisions which define these terms</td>
</tr>
<tr>
<td>Criteria</td>
<td>Irkutsk Oblast</td>
<td>Kaliningrad Oblast</td>
<td>Krasnodar Krai</td>
<td>Primorsky Krai</td>
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<tr>
<td>Resolution No. 134 does not contain provisions which define these terms</td>
<td>Resolution No. 129 does not contain provisions which define these terms</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is not established</td>
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<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is not established</td>
<td></td>
</tr>
</tbody>
</table>
| Restrictive measures in relation to industrial and non-production sectors | • Suspension of the operation of retail trade facilities, with the exception of pharmacies and pharmacy points, as well as retail sales of food products (in stores, markets, fairs, as well as on the street in industrial packaging) and (or) non-food essential goods;  
• Suspension of operations of beauty salons (including hairdressers), spa, beauty and massage | • Suspension of the operation of retail trade facilities, with the exception of pharmacies and pharmacy points, as well as retail sales of food products (in stores, markets, fairs, as well as on the street in industrial packaging) and (or) non-food essential goods;  
• Suspension of operations of beauty salons (including hairdressers), spa, | • Suspension of the operation of retail trade facilities, with the exception of pharmacies and pharmacy points, as well as retail sales of food products (in stores, markets, fairs, as well as on the street in industrial packaging) and (or) non-food essential goods;  
• Suspension of operations of beauty salons (including hairdressers), spa, | • Prohibition to hold large public events with the physical presence of citizens;  
• prohibition to book rooms, receive and accommodate citizens in hotels and other similar places, except those on business trips or on missions, etc. | • Suspension of the operation of retail trade facilities, with the exception of pharmacies and pharmacy points, as well as retail sales of food products (in stores, markets, fairs, as well as on the street in industrial packaging) and (or) non-food essential goods;  
• Suspension of the operation of beauty salons (including hairdressers), spa, |
<table>
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<th>Kaliningrad Oblast</th>
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<th>Primorsky Krai</th>
<th>Khabarovsk Krai</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>salons, tanning salons, baths, saunas, swimming pools, fitness centers, and other physical culture facilities, water parks, and other facilities where such services are provided, providing for the full-time presence of a citizen, etc.</td>
<td>beauty and massage salons, tanning salons, baths, saunas, swimming pools, fitness centers, and other physical culture facilities, water parks, and other facilities where such services are provided, providing for the full-time presence of a citizen, etc.</td>
<td>beauty and massage salons, tanning salons, baths, saunas, swimming pools, fitness centers, and other physical culture facilities, water parks, and other facilities where such services are provided, providing for the full-time presence of a citizen, etc.</td>
<td>The Law of the Primorsky Krai establishes administrative liability for violating the requirements of regulatory legal acts of Primorsky Krai</td>
<td>SPAs, beauty and massage salons, tanning salons, baths, saunas, swimming pools, fitness centers, and other physical culture facilities, water parks, and other facilities where such services are provided, providing for the full-time presence of a citizen, etc.</td>
</tr>
<tr>
<td>Liability</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Irkutsk Oblast in accordance with the Administrative Code of the Russian Federation</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Kaliningrad Oblast in accordance with the Administrative Code of the Russian Federation</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Krasnodar Krai in accordance with the Administrative Code of the Russian Federation</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Primorsky Krai</td>
<td>Administrative liability for violation of the requirements of regulatory legal acts of Khabarovsk Krai in accordance with the Administrative Code of the Russian Federation</td>
</tr>
<tr>
<td>Restrictive measures against the population</td>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td>• Mandatory digital passes to move within the territory of Primorsky Krai;</td>
<td>• Self-isolation (for those who arrived in the Russian Federation and those over 65 years)</td>
</tr>
</tbody>
</table>

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<tr>
<th>Criteria</th>
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<th>Primorsky Krai</th>
<th>Khabarovsk Krai</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Mandatory carrying an identity document in case of being outside the place of residence (stay);</td>
<td>• Mandatory carrying an identity document in case of being outside the place of residence (stay);</td>
<td>• Mandatory use of personal protective equipment (masks, respirators, gloves) when visiting stores and other premises of organizations whose activities are not suspended, as well as when traveling on public transport;</td>
<td>• Mandatory use of personal protective equipment (masks, respirators, gloves) when visiting stores and other premises of organizations whose activities are not suspended, as well as when traveling on public transport;</td>
<td>• Self-isolation (for those who arrived in the Russian Federation and those over 65 years of age), prohibition to leave the place of residence (stay);</td>
<td>of age), prohibition to leave the place of residence (stay);</td>
</tr>
<tr>
<td>• Mandatory use of personal protective equipment (masks, respirators, gloves) when visiting stores and other premises of organizations whose activities are not suspended, as well as when traveling on public transport;</td>
<td>• Mandatory use of personal protective equipment (masks, respirators, gloves) when visiting stores and other premises of organizations whose activities are not suspended, as well as when traveling on public transport;</td>
<td>• Mandatory refraining from visiting places of a mass congestion of people;</td>
<td>• Mandatory use of personal respiratory protection equipment (masks, respirators) in public areas;</td>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td></td>
</tr>
<tr>
<td>• Presentation of an identity document by persons moving within the territory of Irkutsk Oblast, including those traveling by private (official) vehicles, to law enforcement officers, representatives of executive authorities of Irkutsk Oblast authorized to draw up reports on</td>
<td>• Presentation of an identity document by persons moving within the territory of Irkutsk Oblast, including those traveling by private (official) vehicles, to law enforcement officers, representatives of executive authorities of Irkutsk Oblast authorized to draw up reports on</td>
<td>• Travel restriction, including for tourism and recreation, etc.;</td>
<td>• Travel restriction, including for tourism and recreation, etc.;</td>
<td>• Mandatory use of personal protective equipment (masks, respirators) in public areas;</td>
<td></td>
</tr>
<tr>
<td>• Travel restriction, including for tourism and recreation, etc.;</td>
<td>• Travel restriction, including for tourism and recreation, etc.;</td>
<td>• Prohibition for persons residing (present) on the territory of Krasnodar Krai to leave their place of residence (stay), except for cases when persons:</td>
<td>• Prohibition for persons residing (present) on the territory of Krasnodar Krai to leave their place of residence (stay), except for cases when persons:</td>
<td>• Travel restriction, including for tourism and recreation, etc.;</td>
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<tr>
<td>Criteria</td>
<td>Irkutsk Oblast</td>
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<td></td>
<td>administrative offenses;</td>
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<tr>
<td>• Prohibition for minors to be outside the place of residence (stay) unaccompanied by an adult citizen between 7:00 am and 9:00 pm, and to be unaccompanied by parents (other legal representatives) between 9:00 pm and 7:00 am, etc.</td>
<td></td>
<td></td>
<td>o apply for emergency (urgent) medical assistance and cases of other direct threat to life and health;</td>
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<td>o go to or from the places of business (including work), which is permissible pursuant to Decree No. 206 of the President of the Russian Federation of March 25, 2020, “On the Announcement of Non-Working Days in the Russian Federation”;</td>
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<td>o carry out activities which involve movement within the</td>
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<td>territory of Krasnodar Krai, which is permissible pursuant to Decree No. 206 of the President of the Russian Federation of March 25, 2020;</td>
<td>o go to the nearest place of purchase of goods, works, services, the implementation of which is not restricted pursuant to Resolution No. 129;</td>
<td>o look after incapacitated, partially incapable persons or persons in need of constant care, dependents, deliver</td>
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<td>Criteria</td>
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<td>essential goods to citizens over 65, as well as to citizens with</td>
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<td>diseases of: the endocrine system (insulin-dependent diabetes mellitus),</td>
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<td>the respiratory system, the circulatory system, the genitourinary</td>
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<td>system (chronic kidney disease, stage 3–5); transplanted organs and</td>
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<td>tissues, malignant neoplasms of any localization;</td>
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<td>- take their waste to the nearest waste container;</td>
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<td>- walk their pets at a distance not exceeding 100</td>
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<td>meters from the place of their residence (stay);</td>
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<td></td>
<td>• Prohibition on transit traffic throughout the territories of settlements of Krasnodar Krai, except for driving on highways going through settlements of Krasnodar Krai when no other highways around settlements are available;</td>
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<td></td>
<td></td>
<td></td>
<td>• Prohibition for persons residing on the territory of Krasnodar Krai to travel by road throughout the territories of the municipalities of Krasnodar Krai, etc.</td>
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<tr>
<td>Criteria</td>
<td>Irkutsk Oblast</td>
<td>Kaliningrad Oblast</td>
<td>Krasnodar Krai</td>
<td>Primorsky Krai</td>
<td>Khabarovsk Krai</td>
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<td>Regulation on the expiration</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
<td>Regulation on the expiration is not established</td>
<td>Regulation on the expiration is established, but this period has been repeatedly increased</td>
</tr>
</tbody>
</table>
| Liability                 | Administrative liability for violation of the requirements of regulatory legal acts of Irkutsk Oblast in accordance with the Administrative Code of the Russian Federation | Administrative liability for violation of the requirements of regulatory legal acts of Kaliningrad Oblast in accordance with the Administrative Code of the Russian Federation | Administrative liability for violation of the requirements of regulatory legal acts of Kaliningrad Oblast in accordance with the Administrative Code of the Russian Federation | An administrative fine of RUB 3,000–5,000 | • Administrative liability for violation of the requirements of regulatory legal acts of Khabarovsk Krai in accordance with the Administrative Code of the Russian Federation;  
• By Decree No. 35 of the Governor of Khabarovsk Krai of April 13, 2020, “On Approval of the List of executive authorities of Khabarovsk Krai and Their Officials Entitled to Draw Up Reports on Administrative Offenses Provided for in Article 20.6.1 of the Code of Administrative |
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Irkutsk Oblast</th>
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<th>Primorsky Krai</th>
<th>Khabarovsk Krai</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Support measures for industrial and non-production sectors</strong></td>
<td>• Reduction of the property tax rate for organizations applying the simplified tax system; • Exempting SMEs from rent; • Payment rent deferral under lease agreements for immovable property owned by Irkutsk</td>
<td>• Reduction of the property tax rate for organizations applying the simplified tax system;</td>
<td>• Reduction of the corporate property tax rate; • Reduction of the tax rate in relation to administrative and business centers and shopping centers (malls) and premises therein, etc.;</td>
<td>• Exempting organizations and individual entrepreneurs from the payment of rent for land plots and non-residential facilities owned by the Primorsky Krai;</td>
<td>• Ensuring access of SMEs to financial resources, financial burden reduction; • Reduction of tax rates under the simplified taxation system for SMEs most affected by the spread of novel coronavirus infection;</td>
</tr>
</tbody>
</table>

Offenses of the Russian Federation”, officials authorized to draw up reports under Article 20.6.1 of the Code of Administrative Offenses of the Russian Federation (“Failure to Comply With the Rules of Conduct in an Emergency Situation or the Threat of Its Occurrence”) were appointed.
<table>
<thead>
<tr>
<th>Criteria</th>
<th>Irkutsk Oblast</th>
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<th>Khabarovsk Krai</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ostob, concluded before March 18, 2020, when tenants apply with a statement on the need to grant a payment rent deferral;</td>
<td>• Advance payments and tax deferral provision; [1068]</td>
<td>• Reduction of corporate property tax;</td>
<td>• Concessional loans to SMEs at 0.5%; [1070]</td>
<td>• Procurement support;</td>
<td></td>
</tr>
<tr>
<td>• Extension of the deadlines established by Law No. 75-oz of Irkutsk Oblast of October 8, 2007, for the settlement of advance payments of corporate property tax for taxpayers whose main economic activity contained in the Unified State Register</td>
<td>• Subsidies to SMEs, [1069] etc.</td>
<td>• Suspension of inspections, etc.</td>
<td>• Subsidies;</td>
<td>• Property support (rent payment deferral, reduction of rent);</td>
<td></td>
</tr>
</tbody>
</table>


\[1069\] Decree of the Government of Kaliningrad Oblast No. 205 of April 14, 2020, “On Establishing the Procedure for Providing Subsidies to Legal Entities from the Regional Budget (Save for Subsidies to State (Municipal) Institutions), Individual Entrepreneurs Which Belong to Small and Medium-Sized Businesses with an Average Number of Employees up to 15 People, for Implementation of Activities Related to Entrepreneurial Activity, Partial Financing of Salary Costs and Payroll Charges, Rent Payment for Premises Used for Entrepreneurial Activities in 2020 and on the Allocation of Funds from the Reserve Fund of the Government of the Kaliningrad Region Within the Framework of Activities related to Addressing the Consequences of the Spread of Coronavirus Infection and Preventing the Impact of the Deteriorating Economic Situation on the Development of Economic Sectors in Kaliningrad Oblast”.

\[1070\] URL: http://mb.primorsky.ru/regional-measures.
<table>
<thead>
<tr>
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<th>Krasnodar Krai</th>
<th>Primorsky Krai</th>
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</thead>
<tbody>
<tr>
<td>of Legal Entities (EGRUL) as of March 1, 2020, corresponds to the OKVED code included in the list of industries of the Russian economy, approved by Decree No. 434 of the Government of the Russian Federation of April 3, 2020;</td>
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<tr>
<td>• Extension of the deadlines for the settlement of advance payments of transport tax for taxpayers whose main economic activity contained in the EGRUL as of March 1, 2020, corresponds to the OKVED code included in the list of industries of the Russian economy, approved by Decree No. 434 of the Government of the</td>
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<tr>
<td>Criteria</td>
<td>Irkutsk Oblast</td>
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<tr>
<td>Russian Federation dated April 3, 2020;</td>
<td>• Suspension of inspections of companies;</td>
<td>• Subsidies to legal entities (except for state (municipal) institutions) and individual entrepreneurs who have decided to introduce a part-time working schedule, etc.</td>
<td></td>
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</tr>
<tr>
<td><strong>Support measures for population</strong></td>
<td>• Monthly money payments for children aged 3–7 inclusive (in accordance with Decree No. 199 of the President of the Russian Federation of March 20, 2020, “On Additional Measures of State Support for Families with Children”);</td>
<td>• A one-time measure of social support in the form of social benefits to unemployed citizens and the allocation of funds as part of measures related to preventing the impact of the deteriorating economic situation on the development of economic</td>
<td>• Repayment holiday (for persons whose maximum loan amount is RUB 1.5 million and whose earnings have dropped by 30% or more);</td>
<td>• Payment of utility bills for certain categories of citizens as regional social supplements to pensions;</td>
<td>• Of one-time targeted assistance to the population in the amount of RUB 6,000;</td>
</tr>
<tr>
<td></td>
<td>• Establishment of incentive payments to</td>
<td></td>
<td>• Assistance to single elderly citizens;</td>
<td>• Child allowance, monthly monetary payments at the birth (adoption) of a third child or subsequent children as regional social supplements to pensions;</td>
<td>• Incentive payments to certain categories of employees of public health institutions for the period of high-readiness operation;</td>
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<td></td>
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<td>• Delivery of food packages to low-income citizens;</td>
<td></td>
<td>• Organization of the issuance of</td>
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<td>Criteria</td>
<td>Irkutsk Oblast</td>
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<td>certain categories of employees of public health institutions for the period of high-readiness operation — organization of the issuance of personal protective equipment to certain categories of citizens, etc.</td>
<td>sectors, with the prevention and addressing the consequences of the spread of coronavirus infection (RUB 10,000); • Monetary payments to families in difficult circumstances in connection with measures related to the prevention and addressing the consequences of the spread of coronavirus infection; • One-time financial assistance to citizens registered with the public employment services, job-seekers, etc.</td>
<td>• One-time payments to low-income families (RUB 5,000); • One-time payments to low-income large families (RUB 10,000); • Extension of discounted public transport tickets</td>
<td>• Extension of social support measures; • Additional incentive payments</td>
<td>personal protective equipment to certain categories of citizens, etc.</td>
</tr>
</tbody>
</table>
TABLE 7. RESPONSE TO THE COVID-19 PANDEMIC BY MOSCOW, MOSCOW OBLAST, ST. PETERSBURG, THE REPUBLIC OF TATARSTAN, NIZHNY NOVGOROD OBLAST AS OF SEPTEMBER 2020 — MARCH 2021

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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</thead>
<tbody>
<tr>
<td>Legal acts</td>
<td>• Decree of the Mayor of Moscow No. 68-UM of June 8, 2020 (as amended on March 5, 2021), &quot;On the stages of removing restrictions imposed due to the introduction of a high alert mode&quot;. 1071</td>
<td>• Resolution of the Governor of Moscow Oblast No. 108-PG of March 12, 2020 (as amended on March 12, 2021), &quot;On the introduction of the high alert mode in Moscow Oblast for administrative bodies and forces of the Moscow Oblast system of...&quot; 1075</td>
<td>• Resolution of the Government of St. Petersburg No. 121 of March 13, 2020 (as amended on March 24, 2021), &quot;On measures to prevent the spread of the novel coronavirus infection in St. Petersburg (COVID-19)&quot;. 1076</td>
<td>• Regulation of the President of the Republic of Tatarstan No. 129 of March 19, 2020, &quot;On the introduction of the high alert mode for administrative bodies and forces of the territorial subsystem of emergency prevention and...&quot;</td>
<td>• Decree of the Governor of Nizhny Novgorod Oblast No. 27 of March 13, 2020 (as amended on March 25, 2021), &quot;On the introduction of the high alert mode due to the spread of the novel coronavirus infection (COVID-19)&quot;. 1079</td>
</tr>
</tbody>
</table>

1071 Decree of the Mayor of Moscow No. 68-UM of June 8, 2020 (as amended on March 5, 2021), "On the stages of removing restrictions imposed due to the introduction of a high alert mode". URL: https://docs.cntd.ru/document/565046123 (the date of access: March 25, 2021).


1076 Decree of the Governor of Nizhny Novgorod Oblast No. 27 of March 13, 2020 (as amended on March 25, 2021), "On the introduction of the high alert mode due to the spread of the novel coronavirus infection (COVID-19)". URL: https://www.government-nnov.ru/?id=17518 (the date of access: March 25, 2021).
<table>
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<tr>
<th>Criteria</th>
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<tr>
<td>No. 212-PP of March 24, 2020 (as amended on December 25, 2020), &quot;On economic support measures under conditions of a high alert mode&quot;</td>
<td>emergency prevention and response and some measures to prevent the spread of the novel coronavirus infection (COVID-19) on the territory of Moscow Oblast</td>
<td>response of the Republic of Tatarstan; Resolution of the Governor of Moscow Oblast No. 408-PG of September 11, 2020 (as amended on December 12, 2020), “On measures to prevent the spread of the novel coronavirus infection</td>
<td>• Decree of the Governor of Nizhny Novgorod Oblast No. 53 of April 7, 2020, &quot;On measures to support organizations and individuals affected by the spread of the novel coronavirus infection (COVID-19)&quot;</td>
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</tbody>
</table>

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1077 Regulation of the President of the Republic of Tatarstan of March 19, 2020, No. 129 "On the introduction of the high alert mode for the administrative bodies and forces of the territorial subsystem of emergency prevention and response of the Republic of Tatarstan". URL: https://rg.ru/2020/03/20/tatarstan-rasp129-reg-dok.html (the date of access: March 25, 2021).

1080 Decree of the Governor of Nizhny Novgorod Oblast No. 53 of April 7, 2020, "On measures to support organizations and individuals affected by the spread of the novel coronavirus infection (COVID-19)". URL: https://government-nnov.ru/?id=255032 (the date of access: March 25, 2021).
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<td></td>
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<td>&quot;On approval of the procedure for granting a one-time measure of social support in the form of social benefits to certain categories of citizens&quot;; ¹⁰⁷⁴</td>
<td>&quot;On approval of the procedure for granting a one-time measure of social support in the form of social benefits to certain categories of citizens&quot;; ¹⁰⁷⁴</td>
<td>in the Republic of Tatarstan ¹⁰⁷⁸</td>
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<td></td>
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<td>• Law of Moscow Oblast No. 223/2020-OZ of November 24, 2020, &quot;On amendments to the Law of Moscow Oblast 'On the patent'&quot; and the Law of the city of Moscow 'On the patent'</td>
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¹⁰⁷⁴ Resolution of the Governor of Moscow Oblast No. 408-PG of September 11, 2020 (as amended on December 12, 2020), "On approval of the procedure for granting one-time measure of social support in the form of social benefits to certain categories of citizens". URL: https://mosreg.ru/download/document/1090374 (the date of access: March 25, 2021).

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<tr>
<td>Restrictive measures in relation to industrial and non-productive sectors</td>
<td>• Prohibition of any leisure, entertainment, cultural, physical, sports, exhibition, educational, advertising, and other similar events with the physical presence of people, as well as the provision of respective services, in particular, in parks of culture and rest, shopping and entertainment centers, amusement parks, and other places of mass gathering with more than 50% of participants within</td>
<td>• Prohibition of all sports and physical activities on the territory of the Moscow Oblast without the approval of the Ministry of Physical Culture and Sports of the Moscow Oblast;</td>
<td>• Obligation to ensure that employees over the age of 65, as well as employees with chronic diseases, work remotely;</td>
<td>• Prohibition to provide hookah services for smoking;</td>
<td>• Prohibition of mass events, except for sports events with a maximum number of participants not exceeding 300 people, commemoration events not exceeding 50 people, marriage registrations not exceeding 20 and 50 people for indoor and outdoor venues respectively;</td>
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<td></td>
<td>• Prohibition on visiting buildings, facilities, and constructions by individuals failing to comply with the restrictive measures;</td>
<td>• Prohibition on visiting shopping and entertainment centers with an area</td>
<td>• Prohibition to hold public events;</td>
<td>• Suspension of the work of nightclubs;</td>
<td>• Suspension of the operation of retail trade facilities, beauty salons (including hairdressers), spa, beauty and massage</td>
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<td></td>
<td>• Prohibition on visiting shopping and entertainment centers with an area</td>
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<td>• Implementation of activities in certain areas only after receiving a QR-code, confirming the readiness to meet the safe operation standard of an organization, etc.</td>
<td>• Suspension of the work of entertainment events as well as the provision of catering services from 23:00 to 6:00;</td>
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<td></td>
<td>the total territory of the event place;</td>
<td>of more than 5,000 square meters for individuals with a body temperature over 37 degrees;</td>
<td></td>
<td></td>
<td>salons, tanning salons, baths, saunas, swimming pools, fitness centers, and other physical culture facilities, water parks and other facilities where such services are provided with the full-time presence of citizens, theaters, zoos, etc.;</td>
</tr>
<tr>
<td>•</td>
<td>Prohibition of all mass events;</td>
<td>Prohibition of all mass events;</td>
<td></td>
<td></td>
<td>The obligation to transfer to remote work all employees whose direct participation is not necessary for continuous technological processes, limit contacts between functional groups of the organization, cancel business trips</td>
</tr>
<tr>
<td>•</td>
<td>Suspension of the work of clubs and sections of the “Moscow Longevity” program in buildings, facilities, and premises;</td>
<td>Requirements for employers to ensure that the body temperature of workers is measured, at least 10% of workers are tested for the new coronavirus infection every 15 days (if staff size exceeds 100 persons), personal protective equipment is used by workers;</td>
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<td>•</td>
<td>Requirements to ensure that the body temperature of workers is measured, at least 10% of workers are tested for the new coronavirus infection every 15 days, personal protective equipment is used by workers;</td>
<td>Informing employees who travel outside the territory of the Russian Federation about the need to comply with mandatory</td>
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<td>•</td>
<td>At least 30% of employees, as well as citizens above 65 and citizens with diseases, the list of which was</td>
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<td>Criteria</td>
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<td>Moscow Oblast</td>
<td>St. Petersburg</td>
<td>The Republic of Tatarstan</td>
<td>Nizhny Novgorod Oblast</td>
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| **Restrictive measures against the population** | • Prohibition to smoke hookahs in restaurants, bars, cafes, and other public places;  
• Use of personal protective equipment for respiratory organs (masks, respirators) and hands (gloves);  
• Maintaining a social distance | • Self-isolation for those arriving in the Russian Federation and cohabiting with them;  
• Maintaining a social distance of at least 1.5 meters, when doing sports of at least 5 meters;  
• Use of individual protective equipment for respiratory organs (masks, respirators) while in public places;  
• Doing walks with no more than two people together (if they are not members of the same family); | • Self-isolation for citizens over the age of 65, as well as citizens with chronic diseases;  
• Use of personal respiratory protective equipment;  
• Maintaining a social distance of at least 1.5 meters; | • Use of personal protective equipment for respiratory organs (masks, respirators) and hands (gloves);  
• Maintaining a social distance of at least 1.5 meters; | • Self-isolation for pregnant women, citizens over 65, as well as citizens with chronic diseases;  
• Use of personal protective equipment for respiratory organs (masks, respirators) and hands (gloves);  
• Maintaining a social distance of at least 1.5 meters |
Criteria | Moscow | Moscow Oblast | St. Petersburg | The Republic of Tatarstan | Nizhny Novgorod Oblast
--- | --- | --- | --- | --- | ---
Support measures for industrial and non-productive sectors | • Economic support for SMEs up to July 1, 2021, up to 6% per annum on loans received until April 15, 2020, up to 8% per annum on loans received from April 15, 2020; • Application of the 2018 cadastral value of the property when calculating the amount of corporate property tax for 2021; | • Extension for 2021 of the reduced rate of 10% for persons engaged in activities from the specified list\(^{1081}\) and applying the simplified taxation system; • Extension of tax vacations for 2021 for some individual entrepreneurs | • Exemption of SMEs from payment of transport tax for 2020–2021; • Exemption of hotel, tourist, and sanatorium business and landlords from payment of certain taxes for 2020–2021; • Exemption, deferral, installment payments on fees under city real estate contracts, including certain tenant contracts, as well as • Rent deferral for SMEs and enterprises of the most affected rent industries due to the use of real estate under real estate rental contracts that is in state ownership of the Republic of Tatarstan; | • Rent deferral for transport operators in municipal and [or] inter-municipal routes of regular transportation in Nizhny Novgorod Oblast from transport tax; • Allocation of financial support and subsidies to compensate for the employee compensation and municipal services; • Exemption of transport operators in municipal and [or] inter-municipal routes of regular transportation in Nizhny Novgorod Oblast from transport tax; | • Allocation of financial support and subsidies to compensate for the employee compensation and municipal services; | 1081 Law of Moscow Oblast No. 9/209-OZ of February 12, 2009 (as amended on November 24, 2020), "On tax rates raised due to the application of the simplified taxation system". URL: https://docs.cntd.ru/document/819085729 (the date of access: March 25, 2021).
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<tr>
<th>Criteria</th>
<th>Moscow</th>
<th>Moscow Oblast</th>
<th>St. Petersburg</th>
<th>The Republic of Tatarstan</th>
<th>Nizhny Novgorod Oblast</th>
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<tr>
<td>• Exemption of tenants from rent under contracts of tenancy for non-residential facilities or land plots owned by the city of Moscow and land plots in the city of Moscow, the state ownership of which is not delimited, as well as implementation of other measures</td>
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<td>• Extension of the deadline for the rent payment for SMEs under tenant and land plot agreements that is in state ownership of Nizhny Novgorod Oblast; • Subsidies for the organization of children’s leisure activities</td>
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<tr>
<td><strong>Support measures for population</strong></td>
<td>• Delivery of medication that is provided free of charge according to prescriptions; • Targeted social assistance via the hotline; • Renewal of fare benefits when traveling on public transport; • Incentive payments to employees of</td>
<td>Additional payments to employees, as well as seconded employees of the institutions subordinated to the Ministry of Defense of the Russian Federation, who provided medical care during the high alert mode</td>
<td>Food packages for families with pupils of educational institutions, etc.</td>
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<td>• One-time social financial support to a child from 3 to 7 years old, etc.</td>
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<td>• Imposing the obligation on telecommunications operators to provide communication services and Internet connection for residents of Nizhny Novgorod Oblast aged over 65 with a zero or negative balance; • Additional payments to medical workers, etc.</td>
</tr>
<tr>
<td>Criteria</td>
<td>Moscow</td>
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<td>medical organizations, etc.</td>
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TABLE 8. RESPONSE TO THE COVID-19 PANDEMIC BY IRKUTSK OBLAST, KALININGRAD OBLAST, KRASNODAR KRAI, PRIMORSKY KRAI, KHABAROVSK KRAI AS OF SEPTEMBER 2020 — MARCH 2021

<table>
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<tr>
<th>Criteria</th>
<th>Irkutsk Oblast</th>
<th>Kaliningrad Oblast</th>
<th>Krasnodar Krai</th>
<th>Primorsky Krai</th>
<th>Khabarovsk Krai</th>
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<tbody>
<tr>
<td>Legal acts</td>
<td>• Decree of the Governor of Irkutsk Oblast No. 279-ug of October 12, 2020 (as amended on March 5, 2021), &quot;On the high alert mode of operation for the Irkutsk Oblast’s territorial subsystem of the unified state system for the prevention</td>
<td>• Resolution of the Government of Kaliningrad Oblast No. 134 of March 16, 2020 (as amended on March 15, 2021), &quot;On the introduction in Kaliningrad Oblast of a high alert mode for governing bodies and forces of the territorial subsystem for the prevention and management of emergencies in Kaliningrad Oblast and certain measures to prevent the spread of the</td>
<td>• Resolution of the Head of the Administration (Governor) of Krasnodar Krai No. 129 of March 13, 2020 (as amended as of March 12, 2021), &quot;On the introduction of a high alert mode in Krasnodar Krai and measures to prevent the spread of novel coronavirus</td>
<td>• Resolution of the Governor of Primorsky Krai No. 21-pg of March 18, 2020 (as amended on February 5, 2021), &quot;On measures to prevent the spread of the novel coronavirus infection (COVID-</td>
<td>• Order of the Government of Khabarovsk Krai No. 120-rp of February 13, 2020, &quot;On the introduction of a high alert mode&quot;; ¹⁰⁸⁷</td>
</tr>
</tbody>
</table>


the deterioration in the economic situation in connection with the spread of the novel coronavirus infection”.


**Restrictive measures in relation to industrial and non-productive sectors**

- Restriction [suspension] of the operation of certain organizations and individual entrepreneurs (catering, health resort organizations, fitness centers, etc.);
- Responsibility for employers to implement measures to identify workers with signs of respiratory disease and to take
- Prohibition of mass events;
- Suspension of culture leisure activities [except for the facilities where seating is provided and limited to 70%, whilst intervals between events are of at least two hours for disinfection activities], culture and sports, entertainment and educational activities;
- Suspension of the operation of nightclubs, children’s playrooms, and children’s entertainment centers;
- Suspension of the operation of cinemas with 75% of seats sold;
- Suspension of the operation of clubs and sections and other recreational activities for the elderly citizens;
- Suspension of business events with more than 100 participants, and other mass events when seats are more than 30% full;
- Suspension of sports events, with the exception of certain cases, including sports activities in gyms;
- Suspension of face-to-face events in public places, including social service centers;
- Requirement for employers to suspend sending employees on business trips to foreign countries, hold events with the participation of foreign citizens, and to take part in such events;
- Requirement for employers to ensure a disinfection regime for employees and visitors of organizations and facilities;
- Suspension of provision of hookah smoking services;
- Requirement for employers to measure the body

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<tr>
<th>disinfection measures;</th>
<th>Prohibition to smoke hookahs;</th>
<th>with an area of up to 300 square meters and with an occupancy rate of more than 25% of the capacity of the facility;</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prohibition of mass events in educational organizations with the participation of various groups of citizens (classes, study groups, etc.)</td>
<td>Requirement to hold meetings, seminars, commissions, and other similar events via a remote format;</td>
<td>Requirement of interschool, inter-municipal sports, cultural, and other events, as well as hookah smoking services;</td>
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<tr>
<td>Requirement for employers to transfer at least 50% of office workers to remote work, suspend sending employees on business trips, implement measures aimed at identifying sick employees, use remote methods of gatherings</td>
<td>Requirement for employers to take disinfection measures and measure the body temperature of employees;</td>
<td>Requirement for employers to take disinfection measures and measure the body temperature of employees;</td>
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<td>Recommendation to transfer employees to remote work;</td>
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<td>Limiting the operation of catering facilities from 7:00 to 24:00 local time;</td>
<td>Limiting the operation of catering facilities from 7:00 to 24:00 local time;</td>
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<td>Temperature of employees at their workplaces;</td>
<td>Temperature of employees at their workplaces;</td>
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<td>Requirement for employers to assist their employees with self-isolation at home;</td>
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<td>Prohibition of ceremonial and mourning events with a total number of participants of more than 50 people;</td>
<td>Prohibition of ceremonial and mourning events with a total number of participants of more than 50 people;</td>
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<td></td>
<td>Prohibition to smoke hookahs</td>
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<tr>
<th>Restrictive measures against the population</th>
<th>Support measures for industrial and</th>
<th>Support measures for industrial and</th>
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<tbody>
<tr>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td>• Reduction of corporate property tax;</td>
<td>• Preferential deadline for submission of</td>
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<td>• Use of personal protective equipment (masks, respirators, gloves);</td>
<td>• Reduction of corporate property tax;</td>
<td>• Reduction of the tax rate under</td>
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<tr>
<td>• Mandatory self-isolation for citizens of 65 and over</td>
<td>• Maintaining a social distance of at least 1.5 meters;</td>
<td>• Reduction of the tax rate under simplified</td>
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<td>• Carrying an identity document in case of being outside the place of residence (stay);</td>
<td>taxation system up to</td>
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<td>• Use of personal protective equipment (masks, respirators, gloves);</td>
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<td>• Registration of marriage with the number of people limited to 10, including employees of civil registry offices;</td>
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<td>• Obliging citizens to refrain from visiting crowded places and limit travels for tourism and recreation purposes</td>
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<td>• Maintaining a social distance of at least 1.5 meters;</td>
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<td></td>
<td>• Use of personal protective equipment (masks, respirators, gloves);</td>
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<td></td>
<td>• Self-isolation for citizens with chronic and other certain diseases during high alert mode</td>
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<td>• Maintaining a social distance of at least 1.5 meters;</td>
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<td>• Use of personal protective equipment for respiratory organs (masks, respirators,) in public places;</td>
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<td>• Self-isolation, except in specified cases</td>
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<tr>
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<td>Use of personal protective equipment (masks, respirators) in public places</td>
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</tbody>
</table>
**non-productive sectors**

- Reduction of the transport tax;
- Exemption of SMEs from rent payments;
- Suspension of inspections by executive bodies of the Irkutsk region in 2020, etc.

- Extension of the deadline for the tax and rent payment;
- Provision of subsidies in 2020 due to the shortfall in profits and payment of earnings

documents on investment projects;
- Reduction of corporate property tax;
- Establishment of a reduced rate of the simplified taxation system;
- Deferral of payment on corporate property tax, transport and land plot taxes, taxes on the simplified tax system, and tax on imputed income;
- Deferral on tenant contracts concluded before March 13, 2020

simplified taxation system to 3%;
- Subsidies

3% and 8% for taxpayers who received at least 80% of income from certain types of activities;
- Reduction of corporate property tax up to 1.1% for certain SMEs;
- Reduction of transport tax rate up to 50% of the established one;
- Deferral of rent payments for socially oriented non-profit organizations

**Support measures for population**

Provision of personal protective equipment to certain categories of citizens

- Installment arrears plan for capital repair payments;
- Non-calculation of penalties due to the arrears in payment of capital repair contributions;

- Support to single elderly citizens, low-income citizens, and families in difficult circumstances;
- One-time financial payments to low-income citizens

- Allowance for children aged from 3 to 7 years;
- Providing the right to free sanatorium treatment for medical workers who have been One-time targeted support due to difficult financial circumstances provoked by the measures introduced to combat the spread of the novel coronavirus infection
- Regional one-time payment to unemployed citizens (RUB 10,000);
- Monthly payment for children aged from 3 to 7 years, inclusively;
- Delivery of food packages, industrial goods, and medicines to elderly citizens who are single and live alone, persons with disabilities of groups I and II income families and unemployed citizens exposed to COVID-19