Oplysninger fra EU-lande om muligheden for at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum og forbud til enkeltpersoner mod ophold i bestemte områder, herunder f.eks. i nattelivet, som tillægsstraf til en dom for kriminalitet.

Indhold

Belgien

"There is no general prohibitions of sojourn at specific locations in the public space that is provided in the Belgian criminal legislation. But depending on the stage of the criminal procedure, several possibilities exists on the base of generic rules or practice to prohibit the access to bars or discotheques to persons.

Firstly, the public prosecutor can decide to suspend the prosecution under specific conditions ("probation prétorienne"). If the conditions are not respected or new facts are committed, the prosecution can be decided.

On a later stage (if the prosecutor has engaged the prosecution), the judge can recognize the person guilty without determining a penalty, while he imposes some conditions ("suspension probatoire du prononcé"; exemple: https://www.rtl.be/info/belgique/faits-divers/assises-du-hainaut-5-ans-avec-sursis-partiel-pour-le-meurtre-de-la-luna--255153.aspx). If the conditions aren't met, the person will come back before of the judge to be condemned to a penalty.
Or the judge can condamn to an autonomy probatory penalty ("peine de probation autonome") on the base of Section V *quater* of the Penal Code (see art. 37*octies* to 37*undecies*).
Or the judge can pronounce a conviction with a penalty whose execution is totally or partially suspended under conditions ("sursis probatoire").

About criminal minors, the youth judges can take decisions ("measures") of protection of the youth and ask to the police services to control a prohibition to frequent certain persons or certain places or a prohibition to go out.

On the later stage of the execution of a condemnation, such prohibition of frequent night places or persons can also be pronounced as conditions for a conditional liberation (see act of 17 May 2006 "Loi relative au statut juridique externe des personnes condamnées à une peine privative de liberté et aux droits reconnus à la victime dans le cadre des modalités d'exécution de la peine », http://www.ejustice.just.fgov.be/eli/loi/2006/05/17/2006009456/justel).

The prohibition to frequent bars or night clubs can be decided for example in case of alcoholic/drugs addition, or to avoid to meet some persons exercising a bad influence on the person. In such cases, the identity of those persons and the practical limits of the places must be registered precisely.

Prohibition of the access to some defined places or to meet specific persons has been proposed *as a specific penalty* in the annexed bill, next to existing penalties (see art. 62, see pages 161 and 1538) reforming the criminal code that is currently on the agenda of the Parliament (n°55-1011)."

Bulgarien

“Answer to question № 1

Law on protection of public order during sports events

This law regulates the measures for protection of the public order, as well as the measures against anti-social acts, carried out during sport events.

The law provides penalties for anti-social acts and penalties for other violations in connection with protection of public order during sport events, as well as the imposition of forcible administrative measures.

The penalties for anti-social acts during sport events are a fine, gratuitous labour for the benefit of society, detention in the territorial structures of the Ministry of Interior.

The forcible administrative measures provided by law are a ban for attending sport events in the country and abroad for the period for which the administrative measure has been imposed, and a suspension of the use of the sports facility for holding sports events for a certain period.

The Ministry of Interior establishes and maintains a Unified Automated Register, which contains data on natural and legal persons who have been imposed penalties, forcible administrative measures or sanctions under this Act; persons against whom criminal prosecution has been initiated for committed intentional crimes of a general nature during sport events; persons convicted with entered into force sentences for intentional crimes of a general nature, committed during sport events; committed anti-social acts during sport events, provided by foreign countries or international organizations by virtue of international treaties and agreements to which the Republic of Bulgaria is a party (Art. 6, para. 1, items 1-4 of the Law on protection of public order during sports events).

Law on Assemblies, Rallies and Demonstrations

This law determines the order and the guarantees for organizing and conducting assemblies, rallies and demonstrations.

When the time and place of the assembly, the rally or the way of the movement of the demonstration create conditions for violation of the public order or the safety of the traffic, the mayor of the municipality proposes their change. The mayor of the municipality may prohibit the holding of the assembly, rally or demonstration, when there are undoubted data that they are aimed at forcible change of the constitutionally established order or against the territorial integrity of the country; endanger the public order in the respective settlement; endanger public health in a pre-announced epidemic situation; violate the rights and freedoms of other citizens. The ban is imposed by a reasoned written act within 24 hours of notification.

The organizer of the assembly, rally or demonstration may appeal the prohibition under the previous paragraph before the respective administrative court within 3 days of its receipt. The appeal shall not suspend the execution of the order for prohibition. The court shall announce its decision within 24 hours. The decision of the court is announced immediately and is final. The mayor of the municipality shall immediately notify the competent bodies of the Ministry of Interior for the holding or non-holding of the assembly, rally or demonstration (Art. 12 from the Law on Assemblies, Rallies and Demonstrations).

In addition, according to Art. 13 of the Law on Assemblies, Rallies and Demonstrations, the mayor of the municipality shall terminate the assembly, rally or demonstration, when they are not

organized or are not held under the conditions and by the order, established by this law. Upon termination of the assembly, rally or demonstration, the participants are obliged to disperse.

Citizens and officials who violate the established order and the guarantees for organizing and holding assemblies, rallies or demonstrations shall be punished with a fine of BGN 50 to BGN 300, if they are not subject to a stricter penalty. Violations are established by acts from officials appointed by the mayor of the municipality. Penal decrees are issued by the mayor of the municipality and can be appealed under the Administrative Violations and Penalties Act (Art. 14 of the Law on Assemblies, Rallies and Demonstrations).

Answer to question № 2
The Penal Code provides for the imposition of the penalty probation.

According to the provision of art. 42a of the Penal Code, probation is a set of control and impact measures without deprivation of freedom, which are imposed jointly or separately. The probation measures are: mandatory registration at the current address; mandatory periodic meetings with a probation officer; restrictions on free movement; inclusion in professional qualification courses, social impact programs; corrective labour; gratuitous labour to the benefit of society.

The probation measure "restrictions on free movement" is the imposition of one or more of the following prohibitions for: visiting specific places, areas and establishments determined in the sentence; leaving the settlement for more than 24 hours without permission from the probation officer or the prosecutor and leaving the dwelling the person inhabits during a certain period of the day and night (Art. 42b, para 3 of the Penal Code). Probation is carried out in accordance with the law.

According to the Law on Execution of Sentences and Detention, the implementation of the probation measure "restrictions on free movement" is controlled by inspections according to a plan and schedule prepared by the probation officer and agreed with the head of the relevant regional department of the Ministry of Interior or with an official authorized by him. The inspections are carried out by a probation officer or an official designated by him.

The ban on visiting the places, areas and establishments specified in the sentence shall also be communicated to the owners or officials responsible for the access to these places, areas and establishments determined by the court. Permission to leave the settlement is given to the convict by the probation officer for reasons of personal or public character- for no more than 7 days; for hospitalization and for taking an examination in schools or in connection with legal proceedings.

When it is necessary to use emergency medical care in a hospital and outside the current address of the convict, the probation officer allows the absence based on a doctor's referral and official note for the time of treatment. The convict or his relatives are obliged to immediately notify the probation officer about the hospitalization.
When the absence has to last more than 7 days, the probation officer coordinates the permission to leave with the district prosecutor (art. 213 of the Law on Execution of Sentences and Detention).”

Estland

”I Estland er der ikke nogen generel regulering på området. Beslutninger vedr. udelukkelse af særlige personer fra enten det offentlige rum eller særlige lokaliteter bliver taget af domstolene gennem en sag-for-sag tilgang.”

Finland

"The Finnish system of criminal sanctions is based on the premise that the execution of sentences does not result in any "ex-post sanctions" after the execution of the sentence as suggested by question two. Sojourn in public places cannot be restricted on the basis of previous convictions for violence crimes or other convictions.

Furthermore, the police cannot prohibit access to the public space on the basis of a threat of disturbance (question 1)."

Frankrig

”Artikel 131-6, pt. 12 i den franske straffelov siger at: *« L'interdiction, pour une durée de trois ans au plus, de paraître dans certains lieux ou catégories de lieux déterminés par la juridiction et dans lesquels l'infraction a été commise ».* Ambassadens uofficielle oversættelse, som ikke er juridisk funderet: ”Forbud i en periode på op til tre år fra tilstedeværelse på bestemte steder eller kategorier af steder, der er bestemt af retten, og hvor lovovertrædelsen er begået”. Dvs. at der i stedet for fængsling er muligt at lave et opholdsforbud i et defineret område eller kategorier af områder i relation til den forbrydelse, personen er blevet dømt for. Nattelivet vil derfor formentlig være inkluderet i nogle specifikke tilfælde.

Derudover siger artikel 131-9 i straffeloven, at det ikke er muligt at tilføje en opholdsforbudsdom ovenpå en fængselsstraf.

Det er generelt op til borgmestrene i samarbejde med politiet at regulere nattelivet i den enkelte kommuner. Det ser dog ikke ud som om et forbud mod ophold på bestemte steder i det offentlige rum eksisterer som et værktøj i denne håndhævelse eller er inkluderet i deres kompetencer. Politiet kan udstede bøder, hvis individer forringer den offentlige orden, ved f.eks. støj.

Link til relevant del af fransk straffelov:
https://www.legifrance.gouv.fr/codes/article_lc/LEGIARTI000029371133/2017-01-29”

Grækenland

”**1.** Hvorvidt der er regler, som gør det muligt at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum.

I den **græske retsplejelovs paragraf 283** fremgår det, at der i tilfælde af en verserende retssag og i perioden op til denne og i sager, hvor der er meget stærke indicier imod tiltalte, kan udstedes forbud, der inkluderer forbud mod ophold på bestemte steder i det offentlige rum samt forbud mod at mødes med bestemte personer.

2. Hvorvidt der er regler, som gør det muligt at udstede forbud til enkeltpersoner mod ophold i bestemte områder, herunder f.eks. i nattelivet, som tillægsstraf til en dom for kriminalitet.

Vedrørende spørgsmålet om tillægsstraf til domme for kriminalitet, fremgår det i **den græske straffelovs paragraf 65,** at der kan afsiges domme, der forbyder retten til at udøve et erhverv i en periode fra 1 måned til 2 år for personer, som har begået betydelige lovovertrædelser i forbindelse med deres erhvervsudøvelse, hvortil der kræves en speciel tilladelse. Disse tillægsstraffe (af varighed mellem 1 måned og 2 år) kan afsiges i forbindelse med fængselsdomme på over to år og træder i kraft dagen efter løsladelsen fra fængslet.

Ved domme afsagt i forbindelse med vold ved sportsbegivenheder **(lov 2725/1999**), vil retten obligatorisk forbyde den dømte at følge sportsbegivenheder, der hvor der er tale om holdsport – uanset sportsgren – i en periode på mellem 2 og 5 år. Retten har ligeledes mulighed for at forbyde adgang til sportsbegivenheder for personer i tilfælde, hvor det skønnes, at vedkommende udgør en fare for sikker afholdelse af sportsbegivenheden. For at denne dom (adgangsforbuddet) kan eksekveres, bliver den dømte bedt om at indfinde sig på den lokale politistation to timer inden sportsbegivenhedens afholdelse og forblive der i to timer efter afholdelsen.

3. Andre oplysninger, som skønnes relevante i forhold til de to ovenstående forhold.

I forbindelse med det sidste spørgsmål kan det nævnes, at der i **Den Græske Grundlovs paragraf 11, stk. 2** gives mulighed for udstedelse af opholdsforbud i særskilte områder med henblik på at opretholde sikkerheden for beboerne i dette område. Forsamlinger udendørs kan forbydes, hvis der foreligger en begrundet afgørelse fra politiet, hvis det skønnes, at der vil være fare for den offentlige orden samt det sociale og økonomiske liv.”

Irland

”Resumé:

- Der er i Irland ikke generelle forbud mod ophold på bestemte steder i det offentlige rum. Under første nedlukning under Corona-pandemien blev det overvejet at indføre forbud mod ophold på bestemte steder i det offentlige rum, hvor social afstand ikke var mulig. Ligeledes blev det diskuteret, om der skulle indføres et udgangsforbud om natten for at mindske spredningen af Covid-19. Intet af ovenstående blev en realitet.
- I landet skulle befolkningen under nedlukning på niveau 5 blive inden for en 5km. radius fra deres bopæl med undtagelse af arbejde og andre væsentlige formål. Der gælder på nuværende tidspunkt en rejserestriktion på kommuneniveau og/eller 20km. fra bopælsadresse.
- I Irland er det muligt at forbyde personer dømt eller tiltalt for visse lovovertrædelser at opholde sig i og i nærheden af områder, lokaler, bygninger med alkoholbevilling. Dette forbud kan maksimalt vare 12 måneder.
- Det er også muligt at indskrænke enkeltpersoners bevægelsesfrihed, hvis de er dømt for visse lovovertrædelser. En indskrænkning af bevægelsesfriheden kan omfatte et udgangsforbud om natten og/eller et forbud mod ophold på bestemte områder eller lokaler. En indskrænkning af enkeltpersoners bevægelsesfrihed kan maksimalt vare 6 måneder.

Generelle forbud mod ophold på bestemte steder i det offentlige rum.
I Irland er der ikke generelle forbud mod ophold på bestemte steder i det offentlige rum. I marts 2020 i starten af landets første nedlukning blev det overvejet at udstede et generelt forbud mod ophold på bestemte steder i det offentlige rum, hvor social afstand ikke var muligt. Områder der var medtaget i disse overvejelser var: strande, parker og campingvognsparker. Dette forbud blev aldrig en realitet, men der blev indført øget tilstedeværelse af vagter og politi i parker og andre offentlige steder for at sikre, at social afstand blev overholdt. Det blev ligeledes under første nedlukning diskuteret, om der skulle indføres et udgangsforbud om natten for at mindske spredningen af Covid-19, som man har set det i andre europæiske storbyer. Dette blev dog heller aldrig en realitet. Befolkningen har under nedlukning på niveau 5 ikke måtte bevæge sig længere væk end en radius på 5km. fra deres bopæl med undtagelse af arbejde og andre væsentlige formål. Der gælder på nuværende tidspunkt en rejserestriktion på kommuneniveau og/eller 20km. fra bopælsadresse.

Forbud for enkeltpersoner mod ophold i bestemte områder
I Irland er det muligt at forbyde personer dømt eller tiltalt for visse lovovertrædelser i henhold til straffeloven fra 1994 at opholde sig i og i nærheden af områder, lokaler og bygninger, der har alkoholbevilling. Dette gælder også supermarkeder, boder og køretøjer. Lovovertrædelser der berettiger sådanne forbud omfatter: truende og aggressiv adfærd i det offentlig rum, overfald, manglende overholdelse af politiets anvisninger, chikane mv. Et forbud kan maksimalt vare 12 måneder. Dette blev vedtaget med loven Criminal Justice (Public order) Act fra 2003.

Domstolene kan også indføre en begrænsning af bevægelsesfriheden for enkeltpersoner dømt for visse lovovertrædelser. Disse lovovertrædelser omfatter: truende og aggressiv adfærd i det offentlig rum, overfald, manglende overholdelse af politiets anvisninger, ulovlig indtrængning i en bygning, hærværk, chikane mv. Dette blev indført i 2006 i straffeloven. Et forbud mod ophold

i bestemte områder gælder kun, når en person på 18 år eller derover er dømt i retten og idømt fængsel på 3 måneder eller mere. En begrænsning af en enkeltpersons bevægelsesfrihed kan ikke vare længere end 6 måneder. En begrænsning af enkeltpersoners bevægelsesfrihed kan indebære udgangsforbud om natten, men også forbud mod ophold på bestemte gader eller lokaler i et bestemt angivet tidsrum. Man kan ikke kræve, at en person med indskrænket bevægelsesfrihed skal forblive på et bestemt sted i mere end 12 timer om dagen. En enkeltperson kan godt få tildelt flere forskellige indskrænkninger af sin bevægelsesfrihed, som gælder samtidigt eller bliver afløst af hinanden. Ordrerne må dog tilsammen ikke overstige 6 måneder.

Loven Criminal Justice Act fra 2017 skærpede kautionsbetingelserne i Irland, således at al kontakt med offeret for den anklagedes kriminelle handlinger blev forbudt. Dette omfattede også ofrets familiemedlemmer. Derudover blev et udgangsforbud om natten også en del af kautionsbetingelserne.

Lovene fra 2003, 2006 og 2017 har været hyppigt brugt siden. I 2015 blev en ung irsk mand, der var dømt for voldelig og aggressiv adfærd i nattelivet, forbudt ophold på steder med alkoholbevilling i hovedstadsområdet i 6 måneder. En del af kautionsbetingelserne for den voldsdømte bokser John Joe Nevin var forbud mod ophold på steder og områder med alkoholbevilling i kommunen Westmeath og et udgangsforbud fra 23.00 til 08.00.

Forlængede åbningstider for pubber og natklubber
I slutningen af februar offentliggjorde Justitsministeriet en ny plan, der gør det muligt for pubber og natklubber at forlænge deres åbningstider. Dette skal bidrage til, at nattelivet kommer sig efter Covid-19 pandemien. Planen indeholder også en revision og udvidelse af reglerne om salg af alkohol og alkohollicenser. Ændringerne er del af den nye handlingsplan for retssystemet i Irland. På nuværende tidspunkt skal pubber og natklubber have en særlig tilladelse fra byretten til at holde åbent længere end de gængse åbningstider. Den gængse lukketid for pubber og natklubber er 22.30 fra mandag til torsdag, 00:30 fredag og lørdag, og 23.00 søndag. Landet har tidligere set et markant fald i domme for lovovertrædelser relateret til den offentlige orden i takt med et fald i antallet af ovenstående særlige tilladelser."

Italien

"*1. Hvorvidt der er regler, som gør det muligt at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum?*

Som svar herpå henviste vicedirektør Mandaglio til det forhold, at de italienske borgmestre og præfekter (højtstående embedsmænd, der repræsenterer staten lokalt) har kompetence til at udstede midlertidige, generelle opholdsforbud på bestemte steder i det offentlige rum, som skal være begrundet med henvisning til en generel risiko for folkesundheden og alle individers sikkerhed. Et konkret eksempel herpå er indførelsen af et opholdsforbud for personer og køretøjer på en offentlig vej, hvor der er opstået en fordybning i jordoverfladen, som kan være til fare for personer og bilister.

Desuden henvises der til italienske politimyndigheders mulighed for at udstede forbud mod adgang til sportsbegivenheder, den såkaldte D.A.SPO. (***D****ivieto di* ***A****ccedere alle manifestazioni* ***SPO****rtive*), med henblik på at forebygge vold på stadions. D.A.SPO. er en foranstaltning udstedt af den lokale politidirektør (Questore), hvormed personer, der anses for at være til fare for den offentlige orden og sikkerhed, kan formenes adgang til sportsbegivenheder på stadion i en periode på ét til fem år. For at gøre foranstaltningen mest effektfuld kan forbuddet ledsages af et påbud om at møde op på det lokale politikontor, mens sportsbegivenheden finder sted.

D.A.SPO. hidrører fra lov af 13. december 1989, n. 401, art. 6, der har til formål at forebygge voldsepisoder forbundet med afviklingen af sportsbegivenheder.

2. Hvorvidt der er regler, som gør det muligt at udstede forbud til enkeltpersoner mod ophold i bestemte områder, herunder f.eks. i nattelivet, som tillægsstraf til en dom for kriminalitet?

Italiensk lovgivning tillader udstedelsen af forbud mod specifikke enkeltpersoners adgang til og ophold i bestemte områder (samt i umiddelbar nærhed af disse steder) i nattelivet. Alle kommuner har beføjelse til at identificere områder, hvor der kan indføres adgangsforbud for bestemte personer.

Med det seneste immigrations- og sikkerhedsdekret fra 2020 (det såkaldte "Lamorgese-dekret", som i populær tale har fået navn efter sin initiativtager indenrigsminister Luciana Lamorgese) kan adgangsforbuddet til bl.a. bestemte barer og klubber i nattelivet, der er specifikt identificeret som de steder, hvor forbrydelser mod ejendom eller personer, herunder vold, er blevet begået, pålægges ikke alene enkeltpersoner, der er dømt for disse forbrydelser. Den kompetente politidirektør kan ligeledes udstede adgangsforbud mod enkeltpersoner, der er under anklage for eller er blevet anholdt for ovennævnte forbrydelser, og som vurderes til at udgøre en sikkerhedsrisiko for andre.

Denne tilføjelse til loven har haft til hensigt at muliggøre en hurtigere effektueringen af eventuelle indgreb mod enkeltpersoner end hidtil. Den kom bl.a. i stand som en politisk reaktion på den massive folkelige indignation, der opstod i kølvandet på en drabsepisode i nattelivet i efteråret 2020, da den 21-årige Willy Monteiro blev dræbt efter at have forsøgt at gribe ind i et slagsmål.

Opholdsforbuddet kan begrænses til specifikke tidsrum og kan gælde fra seks til 24 måneder. Overtrædelser af forbuddet mod ophold på bestemte områder i nattelivet sanktioneres med udelukkelse fra disse områder i seks til 24 måneder og med en bøde rangerende fra 800 til 2.000 euro."

Kroatien

"In addition to criminal sanctions that the court will impose on perpetrators of criminal offenses in accordance with the provisions of the Criminal Code, the court may, in addition to a verdict finding them guilty, respect the principle of proportionality, determine some security measures if they can eliminate circumstances that enable or encourage new acts of offense.

Consequently, it is important to mention the security measures in a form of a restraining order, prohibition of harassment or stalking of the victim, other person or group of persons, or the prohibition of approaching a certain place, which the court will impose on the perpetrator when there is a danger that the perpetrator could commit a crime again. The measures can be imposed by the Court for a period of one to five years.

In addition to the above, the Court, with a suspended sentence and a partial suspended sentence, may impose some of the special obligations prescribed by the Criminal Code to the perpetrator. Thus, if the court deems that their application is necessary for the protection of the health and safety of the person to whose detriment the criminal offense was committed or when it is useful to eliminate circumstances that favour or encourage the commission of a new criminal offense, it may impose the following obligations on the perpetrator:

- a ban on visiting certain places, facilities and events, which may be an opportunity or incentive to commit a new criminal offense,
- a ban on associating with a particular person or group of persons who could lead him to commit a criminal offense, a ban on the employment, teaching or accommodation of those persons,
- ban on leaving home during a certain period of the day,
- regular reporting to the competent probation authority, social welfare center, court, police administration or other competent authority, and
- other obligations that are appropriate with regard to the committed criminal offense.

Please note that the Croatian Criminal Code also has several other security measures and special obligations. Here, only those that in their content could correspond to the query, were mentioned."

Letland

"***Whether there exist rules, which makes it possible to issue general prohibitions of sojourn at specific locations in the public space. Whether there exist rules, which makes it possible to issue prohibitions of sojourn at specific locations, such as in nightlife, for individuals, as a consecutive sentence for a criminal conviction.***

In Latvian legal system there are possible to issue prohibitions of sojourn at specific locations as a consecutive sentence for criminal conviction. According to Section 36 of the Criminal Law one of the types of criminal penalties is the restriction of rights. According to first Paragraph of Section 44 of the Criminal Law restriction of rights is the deprivation of specific rights or determination of such prohibition which precludes a person from executing specific rights, taking up a specific office, performing a specific professional or other type of activity, visiting of specific places or events. The forms of restriction of rights may be applied to any guilty person, as appropriate, whether or not in a criminal article sanction, it is supposed to be, or not. It is determined by the third paragraph of Section 44 of the Criminal Law, where it is directly provided that, in addition to the limitation of rights provided for in the relevant Section of the Special Part of the Criminal Law, it is possible to impose another restriction on rights.

However, we would like to draw your attention to the fact that, although Section 44 of the Criminal Law allows for a person to be banned from visiting certain places or measures, criminal law focuses mainly on a ban on a certain occupation or a ban on a certain position. In particular, there is no sentence in the Criminal Law of Latvia that *expressis verbis* would prohibit a person from visiting cafes, restaurants or entertainment events at a given time, for example at night 23.00 to 6.00. However, this is possible according to the general wording of the additional punishments. At the same time, we would like to draw your attention to the fact that according to Second Paragraph of Section 55 and Fourth Paragraph of Section 61 a certain public denial may also apply to a conditionally sentenced person and a conditionally released person. To those persons according to State Probation Service Law is an obligation to be in a specified place and time and to observe the duties specified by the State Probation Service. In particular, the State Probation Service is entitled to process the data on the location of such probation client at certain place and time are processed who has been conditionally released and for whom electronic monitoring has been determined.

At the same time, we would like to point out that currently in Latvian legal system we have an additional punishment – probationary supervision - within the framework of which persons may be barred from being in public places. In particular, according to Section 45.[1] of the Criminal Law probationary supervision is an additional punishment which a court may adjudge or a prosecutor determine in a penal order as a compulsory measure, in order to ensure the supervision of the behaviour of a convicted person or person whose additional punishment has been determined by prosecutor's order, encourage social reintegration of this person and prevent him or her from committing new criminal offences. Accordingly, persons to whom probationary supervision has been applied have a duty to observe the duties imposed by an official of the State Probation Service, including a prohibition to be present in a specified place and time.

In turn, from 1 January 2022 probationary supervision will be as a basic punishment and as a basic punishment will mean the forced involvement of a person in social behaviour adjustments and social rehabilitation measures appropriate to his or her age, psychological characteristics and

level of development. Subject to the referred to type of punishment, officials of the State Probation Service will be entitled to apply to persons a similar penalty, such as a ban on leaving their place of residence at a certain time of day, staying in certain public places, purchasing, carrying or storing certain items.

In the framework of criminal proceedings in Latvia, it is also permissible for a person to apply a prohibition from approaching a specific person or location. According to Section 243 of the Criminal Procedure Law in criminal proceedings a suspect and a accused may be subjected to a security measure such as prohibition from approaching a specific person or location. In particular, a prohibition from approaching a specific location is a restriction, provided for with a decision of the person directing the proceedings, upon a suspect or accused from visiting the relevant location, or being located closer than the distance referred to in the decision.

The Criminal Law
Section 36. Forms of Punishment
(1) One of the following basic punishments may be adjudged against a person who has committed a criminal offence:
1) *[1 December 2011];*
2) deprivation of liberty;
3) *[13 December 2012];*
4) *[13 December 2012];*
5) community service;
6) a fine.

(2) In addition to a basic punishment, the following additional punishments may be adjudged against a convicted person:
1) confiscation of property;
2) deportation from the Republic of Latvia;
2^1) community service;
3) a fine;
4) restriction of rights;
5) *[8 July 2011];*
5^1) probationary supervision; and
6) *[13 December 2012].*

(3) For a person who has committed a criminal violation, a less serious crime or a serious crime for which a punishment of deprivation of liberty for a period of up to five years is provided for, a prosecutor in drawing up a penal order may specify a fine or community service, as well as an additional punishment - restriction of rights or probationary supervision.

(4) The procedures for serving a punishment shall be determined in accordance with law.

Section 44. Restriction of Rights
(1) Restriction of rights is the deprivation of specific rights or determination of such prohibition which precludes a person from executing specific rights, taking up a specific office, performing a specific professional or other type of activity, visiting of specific places or events.

(2) Restriction of rights is an additional punishment adjudged by a court, or determined by a prosecutor in drawing up a penal order for a period from one year up to five years, depriving the rights provided for in the relevant Section in the Special Part of this Law or determining a prohibition. Taking into account the type and nature of the criminal offence in the cases provided for in the Special Part of this Law a person may also be restricted the rights for a longer period, however, the period may not exceed ten years.

(3) According to the nature of the criminal offence a court may also adjudge restriction of rights in cases when such punishment has not been provided for in the sanction of the relevant Section of the Special Part of this Law, or in addition to the restriction provided for in the sanction of the relevant Section of the Special Part of this Law another restriction of rights may also be determined.

(4) If a person has been convicted with deprivation of liberty and with restriction of rights, then the prohibition referred to in this Section shall apply not only to the period when the person is serving the deprivation of liberty, but also to the period to be served for the additional punishment adjudged in the judgment, calculated from the day when he or she completes serving the basic punishment. In the determining of such additional punishment jointly with suspended sentence, the period of serving the additional punishment shall be calculated from the day when the probationary period specified for the person starts. In determining of such additional punishment jointly with other forms of basic punishment, the period for serving the additional punishment shall be calculated from the day when the judgement of conviction or the prosecutor's penal order has entered into effect.

Section 45.[1] Probationary Supervision

(1) Probationary supervision is an additional punishment which a court may adjudge or a prosecutor determine in a penal order as a compulsory measure, in order to ensure the supervision of the behaviour of a convicted person or person whose additional punishment has been determined by prosecutor's order, encourage social reintegration of this person and prevent him or her from committing new criminal offences.

(2) Probationary supervision shall be imposed only in the cases set out in the Special Part of this Law, for a period of one year and up to three years. The prosecutor, when determining probationary supervision in the penal order, may impose no more than half of the maximum duration of probationary supervision provided for in the respective Section of the Special Part of this Law. In the cases provided for in the Special Part of this Law a person may also be applied probationary supervision for a longer period, however, the period may not exceed five years.

(3) During the period of probationary supervision the convicted person or person whose additional punishment has been determined by a prosecutor's penal order, shall fulfil the duties stipulated by the State Probation Service.

(4) If probationary service is applied together with deprivation of liberty, execution thereof shall be commenced after serving of the basic punishment, but if a fine or community service is imposed - from the moment when the judgement of conviction and a prosecutor's penal order has entered into effect. In cases where a person is conditionally released from execution of the punishment of deprivation of liberty prior to completion thereof, the additional punishment -

probationary supervision - shall be commenced from the moment that the supervision of a person after conditional release prior to completion of punishment has ended.

(5) A court may reduce the period of probationary supervision, or revoke it, according to a submission by the State Probation Service.

(6) If a convicted person or a person whose additional punishment has been determined by prosecutor's penal order commits a new crime during the period of serving the additional punishment, a court shall substitute the additional unserved punishment period with deprivation of liberty and shall determine the final punishment in accordance with the provisions provided for in Sections 51 and 52 of this Law.

(7) If a person who has been determined probationary supervision by the judgment of court or the prosecutor's penal order violates provisions thereof without a justified reason, a court, after receipt of a submission by the State Probation Service, may substitute the additional unserved punishment term, counting two probationary supervision days as one day of deprivation of liberty.

Section 55. Suspended Sentence

(1) If, in determining a punishment - deprivation of liberty - for a period exceeding three months but not exceeding five years, or not exceeding three years if an especially serious crime has been committed, a court, taking into account the nature of the committed criminal offence and the harm caused, the personality of the offender and other circumstances of the matter, becomes convinced that the offender, without serving the punishment, will not commit violations of the law in the future, it may punish the offender with a suspended sentence.

(2) In such case, the court shall decide that the execution of sentence is suspended if, within the period of probation adjudicated by it, the convicted person does not commit a new criminal offence, does not violate public order, and fulfils the obligations provided for in the law governing the execution of criminal punishments and stipulated by the State Probation Service.

(3) In imposing suspended sentence, the court shall determine a period of probation of not less than six months and up to five years. The period of probation shall commence on the day of the entering into effect of the court judgment. The specified period of probation may not be less than the applied period of deprivation of liberty.

(4) In imposing suspended sentence, circumstances, which the court has found material for not serving the punishment, shall be set out in the judgment.

(5) In imposing a suspended sentence, additional punishments may be imposed. Additional punishment - probationary supervision - shall be executed only if the court decides to execute the basic punishment determined in the judgment.

(6) *[16 October 2014]*

(7) *[16 October 2014]*

(8) *[16 October 2014]*

(9) If a convicted person upon whom a suspended sentence has been imposed, without justifiable reason does not fulfil the obligations provided for in the law governing the execution of criminal punishments or stipulated by the State Probation Service, the court, on the basis of a submission by the State Probation Service, may take a decision to serve the punishment determined in the judgment for the convicted person, or to extend the period of probation up to one year.

(10) If a convicted person upon whom a suspended sentence has been imposed, commits a new criminal offence during the period of probation, his or her imposed punishment shall be implemented and the court shall determine punishment for him or her in accordance with the provisions provided for in Sections 51 and 52 of this Law.

(10^1) If a convicted person, upon whom a suspended sentence has been imposed, commits a new criminal offence through negligence or is a minor and if he or she is released from criminal liability for the new criminal offence in accordance with Section 58 of this Law or is released from the punishment in accordance with Section 59 of this Law, or a fine or community service has been determined as the basic punishment to him or her for the new criminal offence, a court may take a decision to extend the probationary period up to one year.

(11) Imposing of a suspended sentence shall not be determined for a person for committing of an intentional criminal offence, if the person has been previously convicted with deprivation of liberty and the criminal record thereof has not been set aside or extinguished in accordance with the procedures laid down in law. Imposing of a suspended sentence shall not be determined for a person who has committed the crime provided for in Section 159 or 160 of this Law.

Section 61. Conditional Release Prior to Completion of Punishment

(1) A person who has been convicted with deprivation of liberty, except temporary deprivation of liberty, may be conditionally released prior to completion of his or her basic punishment, if there is a reason to believe that he or she is able to adapt in the society after release without committing a criminal offence.

(2) Taking into account the personality and behaviour of the convicted person, conditional release prior to completion of punishment may be ordered, if:

1) the convicted person has reached a certain result of resocialisation;
2) the convicted person to the extent possible has voluntarily made compensation for the losses caused by his or her crime;
3) the convicted person has the possibilities to acquire means of subsistence in legal way after his or her release;
4) the period specified in a law governing the execution of criminal punishments after imposition of a punishment for the violation of the punishment serving regime has lapsed and there are no effective punishments for administrative violations committed during execution of the punishment of deprivation of liberty;
5) the convicted person is solving and is ready to continue to solve his or her psychological problems which have caused or may cause commitment of criminal offence;
6) the convicted person has agreed to treatment for alcoholism or addiction to narcotic, psychotropic or toxic substances, if he or she has committed the criminal offence due to alcoholism or addiction to narcotic, psychotropic or toxic substances.

(2[1]) Upon conditional release prior to completion of punishment a convicted person may be applied electronic monitoring in conformity with the following conditions:

1) the convicted person agrees to electronic monitoring;
2) implementation of electronic monitoring is possible at the place of residence of the convicted person;
3) application of electronic monitoring will promote inclusion of the convicted person in the society.

(3) Conditional release prior to completion of punishment may be proposed if the convicted person has actually served:

1) not less than half of the punishment imposed for a less serious crime committed;
2) not less than two-thirds of the punishment imposed, if it has been imposed for a serious crime, or if the convicted person is a person who has previously been convicted with deprivation of liberty for an intentional crime and the criminal record for this crime has not been set aside or extinguished;
3) not less than three-quarters of the punishment imposed, if it has been adjudged for an especially serious crime or if the convicted person is a person who has previously been conditionally released prior to completion of punishment and has newly committed an intentional crime during the period of the unserved punishment;
4) twenty-five years of a punishment of deprivation of liberty, if the convicted person is a person for whom life imprisonment has been imposed.

(3[1]) If application of electronic monitoring is possible in accordance with that laid down in Paragraph 2.1 of this Section, conditional release prior to completion of punishment with determination of electronic monitoring may be proposed, if the convicted person has actually served:

1) not less than one third of the punishment imposed for a less serious crime;
2) not less than half of the punishment imposed, if it has been imposed for a serious crime, as well as if the convicted person is a person who has previously been convicted with deprivation of liberty for an intentional crime and the criminal record for this crime has not been set aside or extinguished;
3) not less than two-thirds of the punishment imposed, if it has been adjudged for an especially serious crime, as well as if the convicted person is a person who has previously been conditionally released prior to completion of punishment and has newly committed an intentional crime during the period of the unserved punishment;
4) not less than twenty-four years of a punishment of deprivation of liberty, if the convicted person is a person for whom life imprisonment has been imposed.

(4) <u>During the unserved part of the punishment a person who has been conditionally released prior to completion of punishment shall fulfil the obligations provided for in the law governing the execution of criminal punishments or stipulated by the State Probation Service. If a convicted person upon whom a suspended sentence has been imposed, does not fulfil the abovementioned obligations without a justifiable reason, the court, on the basis of a submission by the State Probation Service, may take a decision to execute the part of unserved punishment.</u>

(4[1]) If a person who has been conditionally released prior to completion of punishment and who has been applied electronic monitoring, without justifiable reason does not fulfil the obligations

related to electronic monitoring laid down in the law governing the execution of criminal punishments, revokes his or her consent to electronic monitoring or implementation of electronic monitoring is not possible anymore in the conditions in which he or she lives, the court, on the basis of a submission by the State Probation Service, may take a decision to execute the part of unserved punishment.

(4^2) If a person who has been conditionally released prior to completion of punishment and who has been applied electronic monitoring, has, in exemplary manner, fulfilled the obligations provided for in the law governing the execution of criminal punishments or stipulated by the State Probation Service and the period laid down in Section 61, Paragraph three of this Law has set in, according to which conditional release prior to completion of punishment is possible without determination of electronic monitoring, the court, on the basis of a submission by the State Probation Service, may take a decision to revoke electronic monitoring. If the court takes a decision to revoke electronic monitoring, the convicted person is monitored in accordance with the provisions for monitoring of the convicted persons conditionally released prior to completion of punishment provided for in the laws and regulations governing the execution of criminal punishments.

(4^3) After release, the life-sentenced prisoner who has been conditionally released prior to completion of punishment shall be under supervision of the State Probation Service for life and shall fulfil the obligations provided for in the law governing the execution of criminal punishments and stipulated by the State Probation Service. If the life-sentenced prisoner who has been conditionally released prior to completion of punishment does not, without justifiable reason, fulfil the obligations provided for in the law governing the execution of criminal punishments and stipulated by the State Probation Service, the court may, on the basis of a submission by the State Probation Service, take a decision to replace the period of supervision of conditionally released with deprivation of liberty for life (life imprisonment).

(4^4) If a life-sentenced prisoner who has been conditionally released prior to completion of punishment and who has been applied electronic monitoring does not, without justifiable reason, fulfil the obligations related to electronic monitoring laid down in the law governing the execution of criminal punishments, revokes his or her consent to electronic monitoring or implementation of electronic monitoring is not possible anymore in the conditions in which he or she lives, the court shall, on the basis of a submission by the State Probation Service, take a decision to replace the period of supervision of conditionally released with deprivation of liberty for life (life imprisonment).

(5) If a person who has been conditionally released prior to completion of punishment commits a new criminal offence during the period of the punishment unserved, the court shall determine punishment for him or her in accordance with the provisions provided for in Sections 51 and 52 of this Law.

(6) Conditional release prior to completion of punishment shall not be applied, if it has been imposed on a person of legal age for an especially serious crime committed against a person who has not attained the age of sixteen years, and is related to sexual violence.

The State Probation Service Law
Section 16.[1] Electronic Monitoring Information System

(1) The Electronic Monitoring Information System shall be an information system the administrator of which is the State Probation Service and in which data on the location of such probation client at certain place and time are processed who has been conditionally released and for whom electronic monitoring has been determined.

(2) Upon processing the information referred to in Paragraph one of this Section, the purpose of the Electronic Monitoring Information System shall be to ensure intensive and operative control of the movement of such probation client who has been conditionally released and for whom electronic monitoring has been determined.

(3) The information processed in the Electronic Monitoring Information System is restricted access information.

The Criminal Procedure Law
Section 242. Procedural Compulsory Measures
(1) In order to ensure criminal proceedings, the rights of a person may be restricted with the following procedural compulsory measures:
1) detention;
2) placement in a medical institution for the performance of an expert-examination;
3) conveyance by force.

(2) Security measures are also procedural compulsory measures. Such measures may be applied only to a suspect or accused.

Section 243. Security Measures
(1) The following are security measures:
1) [12 March 2009];
1^{1}) notification of the change of the place of residence;
1^{2}) reporting to the police authority at a specific time;
2) prohibition from approaching a specific person or location;
3) prohibition from a specific employment;
4) prohibition from departing from the State;
5) residence in a specific place;
6) personal guarantee;
7) bail;
8) placement under police supervision;
9) house arrest;
10) arrest.

(2) The following may also be applied to a minor as a security measure:
1) placement under the supervision of parents or guardians;
2) placement in a social correctional educational institution.

(3) Placement under the supervision of a unit commander (supervisor) may be applied to a soldier as a security measure.

(4) The security measures referred to in Paragraph one, Clauses 1.1- 4 of this Section may also be applied additionally to any other security measure.

Section 253. Prohibition for Approaching a Specific Person or Location
(1) Prohibition from approaching a specific person is a restriction upon a suspect or accused, provided for with a decision of the person directing the proceedings, from being located closer than the distance referred to in a decision from the relevant person, from having physical or visual contact with such person, and using means of communication, or techniques for transferring information, in order to make contact with such person.

(2) A prohibition from approaching a specific location is a restriction, provided for with a decision of the person directing the proceedings, upon a suspect or accused from visiting the relevant location, or being located closer than the distance referred to in the decision.

(3) Approaching a specific person or location shall not be recognised as a violation of the prohibition referred to in Paragraphs one and two of this Section, if such approaching takes place within the framework of criminal proceedings, fulfilling the instructions of the person directing the proceedings."

Litauen

”Litauens straffelov giver ikke mulighed for at pålægge borgere en straf, som direkte forbyder en pågældende borger at besøge bestemte steder i det offentlige rum.

Man kan dog være opmærksom på et par bemærkninger hertil:

1) Hvis den pågældende borger er straffet efter bestemmelserne i straffelovens artikel 721, hvilket omfatter forpligtelsen til at leve adskilt fra offeret og/eller ikke at nærme sig offeret tættere end den fastsatte afstand (polititilhold), kan retten pålægge den dømte en forpligtelse til ikke at nærme sig offeret tættere end den fastsatte afstand, hvis dette er nødvendigt for at beskytte offeret. Retten kan dermed pålægge den dømte et forbud mod at besøge offentlige steder, hvor offeret fast opholder sig og/eller arbejder, herunder også en natklub eller andre steder i nattelivet.

Heraf fremgår det dog, at forbuddet mod at besøge bestemte offentlige steder ikke er knyttet til en lovovertrædelse begået på det pågældende sted, men derimod er pålagt for at beskytte et offer, der f.eks. arbejder på en natklub.

2) Ifølge artikel 31 i kodekset for administrative lovovertrædelser kan retten pålægge en person, som er dømt for en administrativ lovovertrædelse, et (tillægs)forbud mod at deltage i forskellige former for events, som afholdes i det offentlige rum. Forbuddets varighed kan løbe fra en måned til to år.”

Malta

"*1. Hvorvidt der er regler, som gør det muligt at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum?*

I den henseende henvises der til en maltesisk forordning (subsidiær lovgivning 10.33) af 11. august 1978 om opretholdelsen af den offentlige orden på sportspladser, som tillader, at enhver person, der overtræder bestemmelser, foruden sanktionering ved domfældelse med en bøde, kan forbydes adgang til en sportsplads i en periode på højst ét år."

Nederlandene

”Nederlandene (NL) vedtog i 2010 en lov vedr. fodboldhooliganisme og offentlig utryghedsskabende adfærd, der giver hjemmel til udstedelse af opholdsforbud for individer eller grupper i det offentlige rum, herunder fodboldstadier, nattelivet, parker, legepladser og lign.

Opholdsforbud kan udstedes, hvis et individ eller en gruppe enten er mistænkt for overtrædelse af straffeloven eller har udvist gentagende utryghedsskabende adfærd. Udstedelse af opholdsforbud kan ske både administrativt og strafferetligt.

Ved udstedelse på administrativt grundlag kan den pågældende borgmester indføre opholdsforbud mod individer eller grupper på maksimalt 90 dage for gentagende forstyrrende opførsel. Det inkluderer bl.a. tydeligt beruset tilstand, utryghedsskabende adfærd og tiggeri. Opholdsforbuddet kan gives til personer ned til 12 år og kan forlænges maksimalt tre gange inden for to år.

Individer kan ud over opholdsforbud også pålægges en rapporteringspligt, hvor vedkommende skal møde på en politistation inden for et givent tidsinterval for derved at bevise, at man ikke er tilstede på områder eller ved arrangementer, hvortil man har opholdsforbud.
Det administrative opholdsforbud bruges primært i større byer.

Ved udstedelse af opholdsforbud på strafferetligt grundlag kan anklagemyndigheden indføre et opholdsforbud for et individ, der er mistænkt for overtrædelse af straffeloven. Strafferetligt opholdsforbud kan gives til specifikke områder, hvor anklagemyndigheden ser en risiko for, at den mistænkte vil begå forbrydelser eller udvise anden utryghedsskabende adfærd.

Opholdsforbuddet for den mistænkte kan være op til 90 dage med mulighed for forlængelse maksimalt tre gange. Ved domsfældelse kan domstolen som en del af straffen udstede opholdsforbud, forsamlingsforbud og/eller rapporteringspligt i op til fem år.
Justitsministeriet har evalueret lovens virkning og resultaterne forventes offentliggjort til maj.”

Polen

“The answer provided covers issues related to criminal law, where prohibitions to stay in certain places in criminal proceedings are normalized in the Polish Code of Criminal Procedure (hereinafter the CCP) - (preventive measures) and in the Criminal Code (hereinafter the CC) - (penal measures).

Pursuant to Article 249 § 1 of the CCP, preventive measures may be used exclusively for two purposes: 1) to secure the proper course of criminal proceedings and 2) to prevent the accused (suspect) from committing a new, serious crime. Preventive measures have a safeguarding function (they secure, protect criminal proceedings from unlawful obstruction), and at the same time a preventive function (they prevent unlawful influence on the proper course of proceedings) and a protective function (they protect the legal order and society from the committing of a new serious crime).

Preventive measures can be applied by the court and by the prosecutor. The only body authorized to use pre-trial detention is the court. In pre-trial proceedings, pre-trial detention at the prosecutor's request is applied by the district court in whose district the proceedings are conducted, and, in urgent cases, also another district court (Article 250 § 1 and 2 of the CCP). Other preventive measures are applied by the court, and in pre-trial proceedings also by the prosecutor (art. 250 § 4 of the CCP).

One of the preventive measures is police supervision specified in Article 275 of the CCP. The person under supervision is obliged to comply with the requirements contained in the court's or prosecutor's decision. This obligation may consist in the prohibition to leave a certain place of residence, to report to the supervising authority at specified intervals, to notify it of the intended departure and the date of return, to prohibit contact with the victim or other persons, to prohibit the defendant from staying in certain places, as well as other restrictions on the defendant's freedom necessary for the execution of the supervision (Article 275 § 2 of the CCP).

In the CC, Article 39, paragraph 2b specifies a punitive measure in the form of a prohibition to stay in certain environments or places, to contact certain persons, to approach certain persons or to leave a certain place of residence without the court's consent. The penal measure in question can be adjudged both along with the penalty and on its own pursuant to article 59 of CC or article 60 § 7 of CC. Particular forms of penal measure can be imposed on their own, they can also be cumulated in such a way as to achieve specific penological aims. The mechanism that guarantees the observance of the imposed prohibitions and the control of their execution is the possibility to oblige the offender to report at specified intervals to the Police or to another designated body, which is a government administration body or a local government body competent as to the place of the convicted person's residence (see Art. 181a KKW [Executive Penal Code]). In addition to the obligation to report to the Police, such control may be carried out by means of an electronic supervision system.

Article 39, section 2c of the CC specifies the prohibition of entry to a mass event and in section 2d the prohibition of entry to a gambling center and participation in gambling.

Article 72 of the CC specifies obligations that the court may impose or imposes in the case of a sentence with conditional suspension of its execution. Among these obligations, it should be

pointed out in point 7 that the person should refrain from staying in certain environments or places, and in point 7a that the person should refrain from contacting the wronged party or other persons in a specified manner or approaching the wronged party or other persons. The time and manner of performing the imposed obligations shall be determined by the Court after hearing the convicted person.

However, the catalog of trial obligations upon conditional sentencing is not closed, which is indicated by the phrase contained in the provision of Art. 72 par. 1 item 8 of the CC that the court may oblige the convicted person to "conduct in an appropriate manner". This solution is a clear breach of the principle of defining penalties and punishment measures. It is motivated by the principle of individualization of punishment, which, in relation to conditional suspension of sentence execution, requires flexibility in defining probation terms. Thus, it helps to adjust the obligation to the preventive-criminal needs that the criminal law is supposed to satisfy towards the offender, and it also allows for more effective support of compliance with the legal order defined in other branches of law by obliging the convicted person to behave appropriately during the probation period.

It should also be emphasized that punitive measures under Article 39 of the CC and obligations under Article 72 of the CC can be imposed only by the court.

At the same time, the Department of International Cooperation and Human Rights signals that in matters related to preparing draft amendments to the law it is worth using the existing possibilities offered by the inquiry to the Legicoop network, while in the area of regulations related to the maintenance of public order the Ministry of Internal Affairs and Administration remains competent to respond."

Portugal

"***1.*** *Hvorvidt der er regler, som gør det muligt at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum.*

Retten til frihed er en af den portugisiske stats grundlæggende rettigheder og den portugisiske forfatnings artikel 27 om fri bevægelighed beskriver således: Under normale omstændigheder kan ingen borgeres frihed og fri bevægelighed begrænses, undtagen som følge af en domstolsafgørelse, der kan straffes med fængsel eller den retlige anvendelse af en sikkerhedsforanstaltning.

Undtagelser til dette princip er som den vi i øjeblikket opleveler i betragtning af Coovid19-pandemien, hvor det gennem den iværksatte nødretstilstand, midlertidigt er tilladt at begrænse borgeres ret til bevægelse. Nødretstilstanden kan kun vedtages i bestemte tilfælde, som fx en offentlig katastrofe. Nødretstilstanden kan dog kun påvirke den frie borgeres rettigheder i et begrænset omfang og varighed og kun ved hjælp af midler som antages for værende strengt nødvendigt, for at kunne genoprette normaliteten.

Ud over nødretstilstand, er der også den mere juridiske term "belejret tilstand", som er et mere begrænset begreb, som gør sig gældende i usædvanlige situationer, hvor magthandlinger truer den nuværende demokratisk valgte regering eller truer statens suverænitet, uafhængighed, territorial integritet eller demokratiske forfatning. I forbindelse med belejret tilstand kan forbud på offentlige områder sættes i værk.

2. *Hvorvidt der er regler, som gør det muligt at udstede forbud til enkeltpersoner mod ophold i bestemte områder, herunder f.eks. i nattelivet, som tillægsstraf til en dom for kriminalitet.*

Ved pålæggelse af fængselsstraf, giver den portugisiske straffelov retten mulighed for at suspendere afsoning, hvis den specifikke dom ikke overstiger fem år. Retten har hermed mulighed for at pålægge den dømte specifikke regler for adfærd og endog pligter i henhold til straffelovens artikel §51 og §52. Disse artikler indeholder ikke udtømmende lister, og det vurderes derfor af retten i den enkelte sag om de krævede regler for adfærd og pligter ikke overstiger, hvad der er rimeligt at kræve af den dømte.
Som resultat vil det derfor også være muligt at forbyde dømte personer at besøge bestemte steder, herunder også natteliv.

3. *Andre oplysninger, som skønnes relevante i forhold til de to ovenstående forhold.*

I øjeblikket er Portugal i nødretstilstand for at bekæmpe truslen fra Covid19-pandemien. Derfor er visse begrænsninger for fri bevægelighed på plads. Derfor kan borgere kun bevæge sig frit rundt, hvis nogle af de juridiske undtagelser for den specifikke bevægelse er bekræftet."

Rumænien

”1.Rumænsk lovgivning muliggør ikke udstedelse af generelle forbud mod ophold på bestemte steder i det offentlige rum, med undtagelse af restriktioner iværksat i forbindelse med Covid19 pandemien såsom udgangsforbud på bestemte tidsrum.

2. Der kan udstedes forbud mod enkeltpersoners ret til at opholde sig i bestemte områder, deriblandt nattelivet, f.eks. som konsekvens af en dom, såvel som i forbindelse med prøveløsladelser.

3. Et opholdsforbud kan udstedes i forbindelse med selve straffesagen, dvs. inden en eventuel dom er afsagt, som en form for juridisk overvågning.”

Slovakiet

"**1. Rules which makes it possible to issue general prohibitions of soujourn at specific locations in the public space.**

Issuance of prohibition without prior conviction is possible but it is necessary to identify an individual/group of individuals to whom such prohibition would apply.

From the perspective of criminal law, only below-mentioned penalties imposable upon convicted individuals may restrict attendance of certain places (Section 62 CC - punishment of prohibition of residence, Section 62a CC - punishment of prohibition of attendance of public events and appropriate restrictions according to Section 51 (3) d) CC).

However, police officer may within its authority order anybody not to enter a designated place if required so for the national security, maintenance of public order, the protection of health or the protection of rights and freedoms of other persons:

Act No.171/1993 Coll. on the Police Force (Part II: Authority of the Police Officer) Article 27: Authority to Forbid Entry into a Designated Place, or Order to Remain at a Designated Place

If required for the national security, maintenance of public order, the protection of health or the protection of rights and freedoms of other persons, a police officer is authorised to order anybody
a) not to enter a designated place or remain there for the absolutely necessary amount of time,
b) to remain at a designated place for the absolutely necessary amount of time.

2. Rules, which makes it possible to issue prohibitions of sojourn at specific locations, such as in nightlife, for individuals, as a consecutive sentence for a criminal conviction.

The Slovak Criminal Code (CC) knows the punishment of prohibition of residence (Section 62 CC). Restriction of the possibility of the convicted person to remain in a designated area or in a particular district may be imposed for one to five years for an intentional criminal offence if the protection of public order, family, health, morals or assets so requires with regard to the previous conduct of the offender and the place of the commission of the act.

The punishment of prohibition of attendance of public events (Section 62a CC) is close in its nature to the purpose of Section 62 CC. The court may impose the punishment of prohibition of attendance at public events for up to ten years if the offender commits an intentional criminal offence in connection with attendance at a public event or if such is required to protect public order, health, morals or assets with regard to the previous conduct of the offender and the circumstances of the commission of the offence. The convicted person would be thus prohibited from attending sporting, cultural or other public events to the extent determined in the court decision.

Similar purpose is also fulfilled by the so-called appropriate restrictions according to Section 51 (3) d) of the Criminal Code which shall be imposed by the court as part of the probational supervision in case of conditional deferral of punishment of prison sentence. Restrictions are mainly based on the prohibition to attend designated public events, to consume alcoholic beverages and other addictive substances, to meet with persons who have a negative impact on

the offender or who were his accomplices or accessories to a criminal offence, to enter reserved places or areas where they committed the criminal offence, to take part in hazardous games, gambling, gaming machines and betting, etc.”

Slovenien

”Sloveniens Straffelov [Criminal Code] indeholder bestemmelser om opholdsforbud på bestemte steder, der kan indføres under Straffelovens Artikel 65, paragraf 3, subparagraf 8. Derudover indeholder Straffelovens Artikel 71.a en sikkerhedsforanstaltning, hvorunder en gerningsmand kan idømmes et polititilhold eller et kommunikationsforbud med offeret for en kriminel handling, som gerningsmanden har begået, i en periode mellem en måned og tre år (dog kun for visse kriminelle handlinger, herunder kriminelle handlinger mod liv og krop, ære og omdømme, seksuel integritet, menneskers sundhed og anden strafbar handling med elementer af vold).

Ved frigivelse af en dømt person på prøveløsladelse er der også mulighed for at indføre adgangsforbud til bestemte steder (artikel 88, stk. 8, afsnit 8).

Slovenien har desuden bestemmelser om opholdsforbud på bestemte steder i sektorlovgivningen, herunder i Loven om Forebyggelse af Familievold [the Prevention of Family Violence Act] og Loven om Politiopgaver og Autorisationer [The Act on Police Tasks and Authorisations]. I disse tilfælde er der hovedsageligt tale om kortsigtede administrative foranstaltninger, der muliggør frihedsberøvelse med bestemmelser om hurtig domstolsprøvelse.”

Spanien

"Opholdsforbud behandles i spansk lovgivning som I) straf og som II) beskyttelsesforanstaltning.

I. Opholdsforbud som straf:

Straffelovens afsnit 3 vedr. rettighedsfrakendelser fastsætter følgende:

§ 39: Rettighedsfrakendelser er:

f) Frakendelse af retten til at opsøge eller opholde sig på bestemte steder.

§ 40:

Stk. 3.: Frakendelsen af retten til at opsøge eller opholde sig på bestemte steder vil have en varighed på op til 10 år. Forbud mod at nærme sig ofret eller ofrets familie eller andre personer, samt forbud mod at kommunikere med disse, vil have en varighed på én måned til 10 år.

§ 48:

1. Frakendelsen af retten til at opsøge eller opholde sig på bestemte steder forbyder den dømte person at opsøge eller opholde sig på det sted, hvor vedkommende har begået forbrydelsen, eller det sted, hvor ofret eller ofrets familie opholder sig, hvis der er tale om forskellige steder. I de tilfælde hvor der foreligger en erklæring om intellektuelt handicap eller et handicap, der skyldes en mental forstyrrelse, skal den konkrete sag undersøges, idet der skal tages højde for de retsgoder, der skal beskyttes samt for hvad, der er til den handicappede persons bedste, som evt. vil skulle have ledsage- og støtteforanstaltninger stillet til rådighed for at kunne opfylde den pålagte beskyttelsesforanstaltningen.
2. Forbuddet mod at nærme sig ofret, eller ofrets familie eller andre personer som dommeren eller domstolen fastsætter, forbyder den dømte at nærme sig disse personer uanset, hvor de måtte opholde sig, samt at nærme sig disse personers bopæl, arbejdsplads og hvilket som helst andet sted, hvor de normalt plejer at opholde sig. Hvis der er børn, ophæves den samværs-, kommunikations- og opholdsret, der måtte være stadfæstet i en civilretsdom, indtil den dømte har afsonet sin fulde straf.
3. Forbud mod at kommunikere med ofret, eller ofrets familie eller andre, som dommeren eller domstolen fastsætter, forbyder den dømte at kommunikere med disse personer skriftligt, verbalt eller visuelt og ved brug af et hvilket som helst kommunikations- eller computermedie.
4. Dommeren eller domstolen kan beslutte, at kontrollen med disse foranstaltninger foretages ved hjælp af elektroniske medier, der muliggør denne kontrol.

Stk. 5 Vedrørende tillægsstraffe
§ 57:

1. Domstolene kan for forbrydelserne drab, abort, vold, frihedsberøvelse, tortur og seksuelle krænkelser samt for forbrydelser mod den moralske integritet, privatlivet, retten til eget billede og hjemmets ukrænkelighed, æren, kulturarven og den socioøkonomiske orden, henset til gerningens grovhed eller gerningsmandens farlighed, i deres afgørelse pålægge et eller flere af de i artikel 48 omhandlede forbud, der ikke må overskride 10 år, hvis der

er tale om en alvorlig forbrydelse og fem år, hvis der er tale om en mindre alvorlig forbrydelse.
Hvis den dømte er blevet pålagt en fængselsstraf, og dommeren eller domstolen i deres afgørelse har pålagt vedkommende et eller flere af ovennævnte forbud, vil de have en varighed på mellem ét eller 10 år mere end fængselsstraffen angivet i dommen, hvis der er tale om en alvorlig forbrydelse, og mellem ét og fem år, hvis forbrydelsen er mindre alvorlig. I dette tilfælde vil fængselsstraffen og de førnævnte forbud afsones samtidigt.

2. I tilfælde af forbrydelser, som de nævnte i første afsnit i stk. 1 i denne paragraf, der udføres mod ægtefælle eller tidligere ægtefælle, eller mod personer som har eller har haft et lignende forhold uden samliv til dømte, eller mod slægtninge i opstigende og nedstigende linje eller søskende uanset om slægtskabet er gennem blod, adoption eller tilhørsforhold, og uanset om det er dømtes egne eller dømtes ægtefælles eller samlevers, eller mod mindreårige eller personer med handicap, der har brug for særlig beskyttelse, og som samlever med dømte eller som er under dømtes eller dennes ægtefælles eller samlevers myndighed, værgemål, pleje eller faktiske beskyttelse, eller mod en hvilken som helst anden personer, der er en del af dømtes familiebofællesskab, eller mod personer, der grundet deres særlige sårbarhed er underlagt dømtes myndighed eller værgemål i en offentlig eller privat institution, vil dømte under alle omstændigheder blive pålagt den i afsnit 2 i § 48 angivne straf i en periode, der ikke overstiger 10 år, hvis forbrydelsen er alvorlig, og fem år, hvis forbrydelsen er mindre alvorlig med forbehold for det angivne i andet afsnit i forrige stk.
3. Det er ligeledes muligt at pålægge fodbudene angivet i § 48 i en periode, der ikke må overstige seks måneder for forbrydelser angivet i første afsnit af stk. 1 i nærværende §, som anses for værende mindre alvorlige forbrydelser.

II. Beskyttelsesforanstaltning

§ 544 bis

I de tilfælde, hvor en forbrydelse, som de angivne i Straffelovens § 57, er genstand for undersøgelse, kan dommer eller domstol på begrundet vis eller når det er absolut nødvendigt for at kunne beskytte ofret, pålægge sigtede et forbud mod at opholde sig på et bestemt sted, kvarter, kommune, provins eller anden lokal enhed, samt region.

Med samme begrundelse kan dommer eller domstol, efter et forsigtighedsprincip og med en behørig graduering, pålægge sigtede et forbud mod at opsøge bestemte steder, kvarterer, kommuner, provinser eller andre lokale enheder eller regioner, eller forbud mod at nærme sig eller kommunikere med visse personer.

For at kunne iværksætte disse foranstaltninger skal den sigtedes økonomiske situation tages i betragtning ligesom sundhedssituation, familiære situation og arbejde. I særdeleshed bør der tages hensyn til sigtedes mulighed for at videreføre sit arbejde, både mens foranstaltningerne varer og efter disses ophør.

I tilfælde af at den sigtede ikke overholder den foranstaltning, som dommer eller domstol har pålagt vedkommende, kan dommer eller domstol indkalde til møde for retten i henhold til § 505 mhp. at vedtage varetægtsfængsling i overensstemmelse med det fastsatte i § 503 og med beskyttelsesforanstaltningen angivet i § 544 ter eller med andre beskyttelsesforanstaltninger, der

indebærer en større frihedsbegrænsning, hvortil graden af undladelse, årsagerne, alvorligheden og omstændighederne ved undladelsen skal tages i betragtning, med forbehold for det straffeansvar som undladelsen vil kunne medføre.

Uddybende forklaring:
Det er tale om en foranstaltning, der begrænser en grundlæggende rettighed, som er det frie valg af bopæl og den frie bevægelighed inden for det nationale territorium (§ 19 i den spanske Grundlov). Af samme årsag, er det kun en dommer eller domstol, der kan pålægge denne restriktive foranstaltning.

På det strafferetlige område har forbuddet mod at udøve denne ovennævnte grundlæggende rettighed en dobbelt karakter: rettighedsfrakendelse og restriktiv sikkerhedsforanstaltning vedr. bevægelsesfrihed, idet den afhængigt af sagen, kan pålægges som straf, som sikkerhedsforanstaltning og som midlertidig foranstaltning.

Som kontaktforbud er der udelukkende tale om en tillægsstraf, som dommer og domstole kan vælge at anvende, dog ikke i sager om mishandling i hjemmet, hvor det er ufravigeligt at pålægge dømte et kontaktforbud med ofret eller med andre relevante personer.

Foranstaltningen er meget bred, idet det ikke er nødvendigt med en territorial afgrænsning eftersom ordet "steder" kan fortolkes bredt (provins, kommune) eller snævert (kvarter, boligområde, konkret hus). Alle disse fortolkningsmuligheder eksisterer og skal konkretiseres i den konkrete sag i overensstemmelse med graden af den grundlæggende forbrydelses alvorlighed og andre behov, som skønnes hensigtsmæssige.""

Sverige

”1. I Sverige er der ingen juridiske muligheder for at indføre generelle forbud mod at opholde sig på specifikke offentlige steder for på forhånd identificerede grupper. Dog har myndigheder beføjelse til at foretage midlertidige afspærringer ved risiko for uorden, ulykker eller som led i efterforskninger. Ligesom der kan indføres et kontaktforbud i forhold til individuelle beskyttede personer.

2. I Sverige kan et opholdsforbud ikke indføres som en særlig sanktion for en forbrydelse. Men under betinget løsladelse eller prøveløsladelse kan Kriminalvården (den svenske kriminalforsorg) udstede regler, der skal følges af den dømte. En sådan regulering kan henvise til et forbud mod at opholde sig et bestemt sted. Flere oplysninger er tilgængelige på regeringens hjemmeside: Utökade kontroll- och stödmöjligheter avseende skyddstillsynsdömda - Regeringen.se”

Tjekkiet

”***1. Regler, som gør det muligt at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum***

Det tjekkiske retssystem giver ikke mulighed for at udstede generelle forbud mod ophold på bestemte steder i det offentlige rum. I visse tilfælde kan kommuner dog på offentlige steder regulere f.eks. alkoholforbrug, anvendelse af pyroteknik, drift af gadeproduktion eller adgang med dyr, men generelt er det ikke muligt at forbyde adgang eller tilstedeværelse på et offentligt sted. Dette anses at ville være en uforholdsmæssig indblanding i den frie bevægelighed, der er forankret i chartret om grundlæggende rettigheder og friheder, og som er en del af Tjekkiets forfatningsorden.

En undtagelse fra ovenstående er regeringens mulighed for at begrænse den frie bevægelighed og retten til at forsamles fredeligt gennem et krisetiltag under nødretsstilstand eller faretilstand (Afsnit 5 i lov nr. 240/2000 – kriseloven). Dette har været anvendt under den nuværende coronavirus-pandemi.

Guvernører i regionerne samt borgmesteren i hovedstaden Prag har en lignende mulighed i tilfælde af, at i den pågældende region eller hovedstaden Prag erklæres i faretilstand (§ 14, stk. 4 i kriseloven). Forsamlingsret er også begrænset af forbuddet mod forsamlinger nær Parlamentets bygninger (§ 1, stk. 4, i lov nr. 84/1990 – lov om forsamlingsret), ligeledes i nærheden af forfatningsdomstolen eller steder, hvor forfatningsdomstolen handler (Afsnit 25 i lov nr. 182/1993 – lov om forfatningsdomstolen).

2. Regler, som gør det muligt at udstede forbud til enkeltpersoner mod ophold i bestemte områder, herunder f.eks. i nattelivet, som tillægsstraf til en dom for kriminalitet
I det tjekkiske retssystem kan enkeltpersoner straffes med *Forbud mod adgang til sports-, kultur- og andre sociale arrangementer* (Ban from Sport, Cultural and other Social Events – Afsnit 76 i lov nr. 40/2009 straffeloven). Denne straf kan idømmes for en forsætlig, strafbar handling, både for en voksen gerningsmand (med en maksimumsstraf på højst 10 år) og for unge (den maksimale straf kan ikke overstige 5 år). Den kan ikke pålægges en juridisk person. Forbud mod adgang til sports-, kultur- og andre sociale arrangementer kan idømmes særskilt og i tillæg til en anden straf, selvom straffeloven ikke udmåler straffen for den givne strafbare handling (Imposing Multiple Punishments Individually and in Parallel – straffeloven § 53).

Formålet med denne straf er at forhindre gerningsmænd i at begå yderligere kriminel aktivitet ved eller i forbindelse med sociale arrangementer. Det kan være sports- (f.eks. fodboldkamp), kultur- (f.eks. musikkoncert, kunstarrangement) eller andre sociale arrangementer (f.eks. fester, diskoteker). For at straf kan pålægges, skal den forsætlige lovovertrædelse begås i forbindelse med en sådan aktivitet. Den behøver dog ikke at blive begået på stedet og tidspunktet, hvor arrangementet afholdes. En strafbar handling i forbindelse med et arrangement kan f.eks. begås under en rejse til eller efter arrangementets afslutning. Når straffen pålægges, er det nødvendigt præcist at definere de arrangementer, som lovovertræderen forbydes adgang til (det er ikke muligt at forbyde adgang til alle arrangementer generelt).

Til *Forbud mod adgang til sports-, kultur- og andre sociale arrangementer* svarer indholdsmæssigt *Rimelig begrænsning*, der består i forpligtelsen til at afstå fra at besøge sports-,

kultur- og andre sociale arrangementer og kontakt med bestemte personer (Conditional Waiver of Punishment with Supervision – straffeloven § 48). Denne begrænsning kan pålægges af domstolen i tilfælde af en betinget dom eller sammen med flere alternative domme (sammen med husarrest, samfundstjeneste eller opholdsforbud) og kan også pålægges i forbindelse med betinget løsladelse. Rimelige begrænsninger og rimelige forpligtelser kan pålægges i prøvetidens varighed (betinget dom, betinget løsladelse) eller i løbet af straffen.

Som *Forbud mod adgang til sports-, kultur- og andre sociale arrangementer* er *Rimelig begrænsning* en foranstaltning, der skal svare til omstændighederne i en bestemt sag, dvs. en rimelig begrænsning rettet mod en bestemt kriminogen faktor i en konkret sag.

For tiden drøfter parlamentet et lovforslag, som vil tillade afskaffelse af den pålagte rimelige begrænsning og rimelige forpligtelse i prøvetiden, hvis den tiltalte kan forventes at føre et ordentligt liv selv uden.

En anden mulighed er *Opholdsforbud* (Residence ban – §75 straffeloven). Det pålægges for en forsætlig strafbar handling, hvor det i betragtning af gerningsmandens tidligere levevis og af hensyn til stedet, hvor handlingen blev begået, kræves til beskyttelse af den offentlige orden, familie, sundhed, moral eller ejendom. Formålet med denne straf er primært forebyggende. Det består i, at gerningsmanden ikke tillades at opholde sig på et bestemt sted eller i et bestemt distrikt under afsoning af dommen. Stedet eller distriktet, som straffen gælder for, skal være på tjekkisk territorium. Et sted er en kommune, et distrikt kan være en territorial del af en kommune eller en territorialt adskilt del af territoriet, der omfatter flere kommuner, dvs. en region eller flere regioner. Straffen kan ikke gælde for et bestemt hus eller en lejlighed, og det kan heller ikke omfatte hele Tjekkiet. Opholdsforbuddet kan pålægges i en periode på 1 til 10 år. Denne form for straf kan ikke pålægges unge og heller ikke en juridisk person.

For fuldstændighedens skyld kan nævnes begrebet natlig ro, hvis overtrædelse er en *Forseelse mod den offentlige orden* (afsnit 5 i lov nr. 251/2016 om visse forseelser). For en sådan forseelse kan pålægges en administrativ straf (f.eks. advarsel eller bøde) såvel som restriktive foranstaltninger, der kan bestå i forbud mod at besøge udvalgte offentlige steder eller steder, hvor sports-, kultur- og andre sociale arrangementer afholdes eller i pligt til at afstå fra kontakt med en bestemt person/er eller til at underkaste sig et passende program til styring af aggression eller voldelig adfærd (§ 52 i lov nr. 250/2016 om ansvar for forseelser). Sådanne restriktive foranstaltninger kan kun pålægges for en periode på 1 år."

Tyskland

”Der kan tilkendes individuelle opholdsforbud mod straffede personer ifm. overtrædelser i nattelivet. Det vil bero på en dommerkendelse, som træffes når præmissernes for vedkommendes tilsyn (ty. *Führungsaufsicht*) fastlægges. Retten kan tilkende den straffede et forbud mod at opholde sig på særlige steder, som kan tjene som anledning eller motivation til at begå yderligere kriminalitet, enten i tidsrummet for vedkommendes tilsyn eller for et kortere tidsrum. Derudover kan den straffede anvises til at fralægge sig indtagelsen af alkohol og andre rusmidler, hvis der foreligger grunde til at formode, at indtagelsen af sådanne rusmidler vil bidrage til flere lovovertrædelser.

Tilkendelsen af tilsyn er dog kun mulig ifm. særlige forbrydelser som defineret i lovgivningen og først ifm. en fængselsstraf af min. seks måneders varighed. Retten kan derfor kun påbyde tilsyn ifm. eksempelvis legemsbeskadigelse, også i sammenhæng med nattelivet, hvis voldshændelsen samtidig er en seksualforbrydelse eller et røveri.
Derudover kan politiet udstede midlertidige opholdsforbud ifm. konkrete indikationer på fare for den offentlige sikkerhed iht. bestemmelserne i delstaternes politilovgivning. Disse tiltag skal være tidsmæssigt og stedligt afgrænset og tilpas egnede til at kunne forebygge den konkrete fare.

Der findes i tysk ret ingen yderligere muligheder for at tilkende opholdsforbud i nattelivet mhp. at øge borgernes sikkerhedsfølelse.”

Ungarn

"The referenced sections (Section 52, 53, 54, 57, 58 and 71) are all parts of the Criminal Code of Hungary (Act C of 2012).

Disqualification from a profession

Section 52 (1) A person may be disqualified from exercising a profession if he committed the criminal offence
a) by violating the rules of his profession that requires qualification, or
b)intentionally, by abusing his profession.
(2) Paragraph (1)a) may also be applied against a person who was not performing the activity as his profession at the time of committing the criminal offence, but has the qualification required for exercising the profession the rules of which he violated for committing the criminal offence.
(3) If the perpetrator of a criminal offence against the freedom of sexual life and sexual morality committed the criminal offence against a person who has not attained the age of eighteen years, he shall be disqualified permanently from exercising any profession or performing any other activity that involves the education, supervision, care, or medical treatment of a person who has not attained the age of eighteen years, or in the context of which he is in a position of power or influence towards a person who has not attained the age of eighteen years.
(4) The perpetrator of the criminal offence of endangering a minor shall be disqualified from exercising any profession or performing any other activity that involves the education, supervision, care or medical treatment of a person who has not attained the age of eighteen years, or in the context of which he is in a position of power or influence towards a person has not attained the age of eighteen years. In cases deserving special consideration, the mandatory application of disqualification from a profession may be dispensed with.

Section 53 (1) Disqualification from a profession shall be imposed for a fixed period or permanently.
(2) The period of a fixed-term disqualification shall not be shorter than one year or longer than ten years. A person may be permanently disqualified if he is unfit for or unworthy of exercising the profession.
(3) The period of disqualification from a profession shall commence when the conclusive decision becomes final and binding. If disqualification from a profession is imposed in addition to imprisonment, the term of imprisonment served by the convict shall not be credited to, and any period during which he evaded the enforcement of the imprisonment shall not be included in the period of disqualification. The period of release on parole shall be credited to the period of the disqualification from a profession if release on parole is not terminated.
(4) The court may exempt the disqualified person from permanent disqualification upon request, provided that ten years have passed since disqualification was imposed and the disqualified person has become fit for or, if disqualification was imposed due to unworthiness, worthy of exercising the profession. Even in the latter case, a person who committed the criminal offence in a criminal organisation shall not be exempted.

Section 54 For the purposes of this subtitle, it shall also be considered a profession if the perpetrator is

a) a member of a body in charge of the general management of an economic operator or is the sole manager of an economic operator,

b) a member of the supervisory board of a company or a cooperative,
c) the member of an individual firm,
d) a private entrepreneur, or
e) an executive officer of a non-governmental organisation as defined by the Act on non-governmental organisations.

Ban on entering certain areas

The Basic Law of Hungary (in effect since 1 January 2012) provides the constitutional possibility that during a special legal order – such as the so-called state of danger that is currently in effect now, due to the Covid-19 pandemic situation; other examples are state of emergency, state of war – the government limits or suspends people's freedom of movement and freedom of choosing a place of residence.

Section 57 (1) In the cases specified in this Act, a person may be banned from one or more settlements, or certain areas of a settlement or of the country, if his presence there endangers the interest of the public.
(2) The period of a ban on entering certain areas shall not be shorter than one year or longer than five years.
(3) The period of a ban on entering certain areas shall commence when the conclusive decision becomes final and binding. If a ban on entering certain areas is imposed in addition to imprisonment, the period of imprisonment served by the convict shall not be credited to, and any period during which he escapes from the enforcement of the sentence of imprisonment shall not be included in the period of the ban. The period of release on parole shall be credited to the period of the ban on entering certain areas if release on parole is not terminated.

Ban on visiting sports events

Section 58 (1) Due to a criminal offence committed with regard to a sports event in the course of participating in, going to, or leaving the sports event, the court may ban the perpetrator from
a) visiting any sports event organised under the competition scheme of a sports association, or
b) entering any sports facility when it is used to host a sports event organised under the competition scheme of a sports association.
(2) The period of a ban on visiting sports events shall not be shorter than one year or longer than five years.
(3)The period of a ban on visiting sports events shall commence when the conclusive decision becomes final and binding. If a ban on visiting sports events is imposed in addition to imprisonment, the period of imprisonment served by the convict shall not be credited to, as well as any period during which he escapes from the enforcement of the sentence of imprisonment shall not be included in, the period of the ban. The period of release on parole shall be credited in the period of the ban on visiting sports events if release on parole is not terminated.

Probationary supervision

Section 71 (2) With a view to facilitating the achievement of the objective of probationary supervision, the court or, for a conditional suspension by a prosecutor, the prosecution service may prescribe obligations and prohibitions as special rules of behaviour in its decision. The court or the prosecution service may order that the supervised person

…
b) stay away from the aggrieved party of the criminal offence, his home or place of work, or from the upbringing - educational institution attended by the aggrieved party, and places frequently visited by the aggrieved party,
c) do not visit or attend public places, public events and assemblies of a specific nature or certain public spaces,
…”

Østrig

"Austrian criminal law does not provide for a prohibition of attendance in nightlife for certain individuals or a prohibition of sojourn to generate secure environments as a sanction or preventive measure *as such*. However, such measures might be applied on a case-by-case basis under certain circumstances *in combination* with (other) sanctions or preventive measueres, in particular in combination with *conditionally suspended* sentences or preventive measures or if a person is *conditionlly released* from impriosnment or preventive detention.

According tp section 50 paragraph 1 of the Austrian Criminal Code if a sentence or preventive detention is conditionally suspended or if a person is conditionally released from imprisonment or preventive detention, a court has to place the person under directives (or order probation assistance) if this is necessary or appropriate to prevent the person from committing further offences.

According to section 51 paragraph 1 CC directives may involve any obligation or prohibition that appears suitable to prevent the person from committing further offences. Directives that could constitute an unreasonable infringement of the personal rights or life of the person are not permissible. According to section 51 paragaraph 2 CC a person may, in particular, be placed under a directive to live in a specified place, with a specified family, or live in a specified home*; to avoid specified places or contacts; to abstain from consuming alcoholic beverages;* to be trained or engage in a profession suitable to the person's experience, skills, and interests; to report any change in the person's place of residence or place of work; and to report regularly to the court or to another place. The person may also be placed under a directive to repair or restore, to the best of the person's abilities, any damage caused by the person's offence if this is relevant to the need to enforce the sentence in order to prevent the commission of offences by others. (According to section 51 paragraph 3 CC a person may also be placed under a directive to undergo treatment of addiction, psychotherapy, or medical treatment, if the person consents to that treatment and if the requirements set out in paragraph 1 are met. Any directive to undergo medical treatment involving surgery is, however, not permissible, regardless of any consent by the offender.)

During the parole period, a court may issue subsequent directives, or alter or suspend existing directives if this is deemed necessary (sec. 51 apra. 4 CC).

There is no direct or immediate sanction for violations of a directive. According to section 53 paragraph 2 CC if, during the period determined by the court, the person *after receiving formal warning deliberately* fails to comply with a directive (or if the person persistently abstains from the control of the probation supervisor), the court has to revoke the conditional suspension of sentence or the conditional release and enforce the sentence or remaining sentence *if in the circumstances this appears necessary to prevent the person from committing further offences*."