

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Belgium

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency, including enforcement actions

The legal basis for the special powers at a Federal Level was promulgated by two laws that entered into force on 30 March 2020, with a retroactive affect from 1 March 2020, until 30 June 2020:

- **Laws of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (I)** that permits the King to take measures that can adapt the competence, the functioning and the procedure, including the time limits laid down by law, of the Administrative Jurisdiction Division of the Council of State and of the administrative courts.¹
- **Laws of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II)** permits the king to take measures to combat the further spread of coronavirus in the population; guarantee the necessary logistical and reception capacity, including security of supply; provide direct or indirect support, or take protective measures, for the financial sectors, the economic sectors, the market and non-market sectors, enterprises and households; to ensure the continuity of the economy, the financial stability of the country and the functioning of the market, as well as to protect the consumer; make adjustments to labour and social security law with a view to protecting workers and the population, the proper organisation of enterprises and administrations, while guaranteeing the country's economic interests and the continuity of critical sectors; suspend or extend time limits set by or under the law; to ensure the proper functioning of judicial bodies, and more particularly the continuity of the administration of justice, both at civil and criminal level; and comply with the decisions taken by the European Union authorities in the framework of joint crisis management.²

On 17 April 2020, the **Ministerial Order of 23 March 2020 that outlines the emergency measures to limit the spread of coronavirus** was amended and extended the implementation of the revised measures until 3 May 2020.³

¹ Belgium, Law of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (I) ([*Loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(I\)*](#) / [*Wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 \(I\)*](#)). Published in the Belgian official gazette 30 March 2020.

² Belgium, Law of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II) ([*Loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(II\)*](#) / [*Wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 \(II\)*](#)). Published in the Belgian official gazette 30 March 2020.

³ Belgium, Ministerial Order of 17 April 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([*Arrêté ministériel du 17 avril 2020 modifiant l'arrêté ministériel du 23 mars 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19*](#) / [*Ministerieel besluit van 17 april 2020 houdende wijziging van het ministerieel besluit van 23 maart 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken*](#)). Published in the Belgian official gazette 17 April 2020.

1.2 Measures affecting the general population

1.2.1 Social distancing

As stated in section 1.1, the Ministerial Order of 23 March 2020 was amended by Ministerial Order of 17 April 2020.⁴

Article 1 outlines the additional commercial activities were entitled to reopen, in addition to those permitted to remain open since 23 March 2020 (grocery stores (including night shops); food stores for animals; pharmacies; newsagents, petrol stations)⁵ including: telecommunications stores, excluding stores that sell only accessories, but only for emergencies, receiving only one customer at a time by appointment; medical device stores, but only for emergencies, with only one customer at a time, by appointment; general DIY stores that mainly sell tools and/or building materials; garden centres and nurseries that mainly sell plants and/or trees; wholesale shops intended for professionals, but only for the benefit of professionals.

Unauthorised activities, under **Article 5(1)**, include gatherings; activities of a private or public nature, of a cultural, social, festive, folkloric, sporting and recreational nature; school excursions and activities within the framework of youth movements on and from the national territory; activities of religious ceremonies.

Article 5(2) outlines the activities that are authorised:

- funerals, but only in the presence of a maximum of 15 people, with the maintenance of a distance of 1.5 metres between each person and with no possibility of exposure of the body;
- civil marriages, but only in the presence of the spouses, their witnesses and the registrar;
- religious marriages, but only in the presence of the spouses, their witnesses and the minister;
- religious ceremonies recorded for the purpose of broadcasting by all available channels and which take place only in the presence of a maximum of 10 persons, including the persons responsible for the recording, with a distance of 1.5 metres between each person, and provided that the place of worship remains closed to the public during the recording;
- outdoor walks with family members living under the same roof in the company of another person, as well as the exercise of individual physical activity or with family members living under the same roof or with always the same friend, and provided that a distance of 1.5 metres is maintained between each person;
- outings on horseback, solely for the well-being of the animal and with a maximum of two riders.

Since the amending Ministerial Order permits the opening of additional businesses such as garden centres etc, the regulation on permitted travel under **Article 8** has been extended to include travel to

⁴ Belgium, Ministerial Order of 17 April 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([*Arrêté ministériel du 17 avril 2020 modifiant l'arrêté ministériel du 23 mars 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerieel besluit van 17 april 2020 houdende wijziging van het ministerieel besluit van 23 maart 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken*](#)). Published in the Belgian official gazette 17 April 2020.

⁵ Belgium, Initially, hairdressers were allowed to remain open with one customer at a time, however, on 24 March 2020, the Council of Ministers removed hairdressers from the list of businesses that can remain open.

Ministerial Order of 24 March 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([*Arrêté ministériel du 24 mars 2020 modifiant l'arrêté ministériel du 23 mars 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerieel besluit houdende wijziging van het ministerieel besluit van 23 maart 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID - 19 te beperken*](#)) Published in the Belgian official gazette 24 March 2020.

and from the places authorised to be opened on the basis of Articles 1. Accordingly, travel is permitted, under Article 8, for the following purposes:

- to have access to cash dispensers in banks and post offices;
- to have access to medical care;
- to meet family needs, such as visiting one's partner or children in the context of joint parenthood;
- to take assistance and care to the elderly, minors, persons with disabilities and vulnerable persons; taking care of animals; business travel, including commuting to and from work;
- to travel in the context of a voluntary activity within an undertaking in a crucial sector or an essential service as referred to in Article 3, including the journey to and from work;
- to carry out the activities referred to in Article 5(2) (see above);
- to travel in the context of Article 6 (access to schools, creches and universities).

Outside of these cases of necessity and urgency, it is forbidden to be on the public highway and in public places it is necessary for individuals to remain at home.

Infringements of the provisions of Articles 1, 5, 8 and 8bis are punishable by the penalties provided for in article 187 of the law of 15 May 2007 on civil security (**Article 10(1)**). Companies referred to in Article 2 which after an initial report, still do not comply with the obligations in terms of social distancing will be subject to a closure measure (**Article 10(2)**). The administrative police authorities are responsible for ensuring compliance with this Order, if necessary by means of coercion and force, in accordance with the provisions of article 37 of the Police Functions Act (**Article 11**).

On 6 April, an additional Royal Decree introduced the possibility for these penalties to be enforced immediately, by operational officers of the Federal and Local Police (Article 9) subject to the being fully informed of his rights (Article 10).⁶

According to the Federal Police, the enforcement of these measures has been predominantly for non-respect of the rules regarding non-essential travel and non-respect of the social distancing rules regarding gatherings. Nearly one third of those who have been fined were aged between 18 to 24 years old and 15% were aged between 25 to 29 years old.⁷ As of the 24 April 2020, 57,936 fines (*procès-verbaux*) have been officially recorded in the General National Database (*Banque de données nationale generale*) since the beginning of the lockdown for non-respect of the confinement measures.⁸

On 24 April 2020, the first individual, a 23 year old male, was condemned in court for non-respect of the confinement measures. He was sentenced to 125 hours community service. Prior to this he had been fined four times after being identified on several occasions (23, 25, 29 March 2020). On 29 March 2020, he was found to be driving on the public highway in the presence of a non-family member and without respecting the 1.5m distance rules. On this occasion he was arrested and his case sent to the

⁶ Belgium, Royal Decree No. 1 of 6 April 2020 on combating non-compliance with emergency measures to limit the spread of the coronavirus COVID-19 through the introduction of municipal administrative sanctions ([*Arrêté royal n° 1 du 6 avril 2020 portant sur la lutte contre le non-respect des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 par la mise en place de sanctions administratives communales/ Koninklijk besluit nr. 1 betreffende de bestrijding van de niet-naleving van de dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken door de invoering van gemeentelijke administratieve sancties*](#)) Published in the Belgian Official Gazette 7 April 2020.

⁷ Belgium, Coronavirus: The federal police have compiled more than 36,000 hp in one month. ([*Coronavirus: La police fédérale a dressé plus de 36.000 pv en un mois*](#)), DH News, 19 April 2020 [last accessed 8 May 2020].

⁸ Belgium, More than 60,000 p.v. have been recorded since the beginning of the confinement: here is the most verbalised province ([*Plus de 60.000 p.-v. ont été dressés depuis le début du confinement: voici la province la plus verbalisée*](#)) Sud Info, 27 April 2020 [last accessed 8 May 2020].

prosecutor.⁹ On 5 May 2020, the Prosecutor of Brussels confirmed that the individual had been seen once again in violation of the social distancing measure a few days after receiving his first sentence, as a result, he is due to appear before the court once again on 15 May 2020.¹⁰

1.2.2 Education

Following the announcement of the closure of schools by the National Security Council in March 2020, the regional organs have been responsible for the regulations and measures to be taken by the educational establishments. On 24 April, the National Security Council announced that schools would re-open on 18 May 2020 as part of Phase 2 of the Exit Strategy.¹¹ Flemish universities remain using distance learning until the end of the academic year and Francophone universities are implementing a phased return to work for staff members in line with the four stages of the national Exit Strategy. Distance learning, including assessment, remains the norms for the remainder of the academic year.¹²

The **Wallonia-Brussels Federation** have published a number of circulars that outline the measures to follow in the application of distance learning and in order to ensure the continuity of education.¹³ Circular 7541, published on 16 April 2020 reinforces the importance of minimising the impact of the suspension of face to face learning on pupils. The circular recognises that the continuity of learning is an extremely sensitive issue of great importance since the longer the situation endures, then the impact on pupils from disadvantaged backgrounds and children whose parents continue to work and cannot devote the necessary time to their accompaniment will be more prominent. Thus, it is important to maintain a balance between new learning and not disproportionately impacting those who may be at a disadvantage.¹⁴

Circular 7515, published on 17 March 2020, outlines the measures to be taken in order to take account of the closure of schools.¹⁵ The Circular that homework can be arranged but that it must be possible for the work to be completed autonomously, since the pupil may not have assistance at home. The work must not refer to new learning, but only those that have been approached beforehand in class and must be proportionate in terms of content and the time to be devoted to it. Furthermore, the teacher uses e-learning modalities, it is imperative that they ensure that each student in the class

⁹ Belgium, The first trial for non-compliance with containment was held in Brussels: the sentence fell for the offender ([Le premier procès pour non respect du confinement s'est tenu à Bruxelles: la peine est tombée pour le contrevenant](#)) RTL Info, 24 April 2020 [last accessed 8 May 2020].

¹⁰ Coronavirus in Belgium: he was the first person to be convicted of a containment breach in the country... he has re-offended. ([Coronavirus en Belgique: il a été le premier condamné pour infraction aux mesures de confinement dans le pays... il a récidivé](#)) RTL Info, 5 May 2020.

¹¹ Belgium, Coronavirus: Belgium adopts its exit strategy: Press release of the Prime Minister Sophie Wilmès ([Coronavirus : la Belgique a fixé sa stratégie de sortie de crise: Communiqué de presse de la Première Ministre Sophie Wilmès](#)), 24 April 2020.

¹² Belgium, Coronavirus in Belgium: Flemish universities switch to digital mode until the end of the year ([Coronavirus en Belgique : les universités flamandes passent en mode numérique jusqu'à la fin de l'année](#)) Rtbf, 20 March 2020; ULB, [Coronavirus Information and Safety Measures](#); Université de Namur, [Coronavirus: information and recommendation measures](#).

¹³ Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*), Education – organisation of lessons and/or regulatory information ([Enseignement - organisation des cours et/ou infos réglementaires](#)) [last accessed 3 May 2020]; Rtbf, Coronavirus: "No pupil will be prejudiced in his schooling" assures Minister Caroline Désir ([Coronavirus: "Aucun élève ne sera préjudicié dans sa scolarité" assure la ministre Caroline Désir](#)), 18 March 2020.

¹⁴ Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*), Circular 7451 Coronavirus Covid-19 : Decision of the National Security Council 15 April 2020 ([Circulaire 7451 Coronavirus Covid-19: décision du Conseil National de sécurité du 15 avril 2020](#)), 15 April 2020, pp. 7-8.

¹⁵ Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*), Circular 7515 Coronavirus Covid-19 : Decision of the National Security Council 12 March 2020 ([Circulaire 7515 Coronavirus Covid-19: décision du Conseil National de sécurité du 12 mars 2020 – Informations Nouvelles](#)), 17 March 2020, pp.3-4.

group has the materials and support to work on it in a variety of ways. Any work at home can only be evaluated formatively and not summatively.

In **Flanders**, guidelines have been provided to schools and other educational institutions.¹⁶ In particular guidelines related to distance learning and education continuity emphasise the need to implement preteaching with the aim of prevent students who are at risk of falling behind. In this specific corona context, pre-teaching focuses on the whole class group and serves to teach essential learning material from a distance, taking into account the individual learning needs.¹⁷ The Flemish Education Department recognised the problems with access to material and has ensured free wifi for students without internet access¹⁸ and requested donations of laptops and computer material for vulnerable students.¹⁹

1.2.3 Work

At the end of April, new legislative measures have been introduced in accordance with the law of 27 March 2020 allows the King to take a number of temporary measures to manage the consequences of the Covid epidemic-19 which empowers the King to make adjustments to labour law with a view to the proper organisation of companies and the continuity of critical sectors.²⁰ Consequently, as of 1 May 2020, the following new measures have been introduced to assist the functioning of the critical sectors: including an increase in the basic quota of voluntary overtime to 220 hours in the second quarter of 2020 (April-May-June); waiving of the restriction of access to the labour market until 30 June 2020, for those who are seeking asylum and have registered their request before 18 March 2020 (normally there is a restriction of four months); successive fixed-term contracts (for a minimum period of 7 days) can be concluded in critical sectors without leading to the conclusion of an open-ended employment contract until 30 June 2020; employers in all sectors can make their permanent workers (started before 10 April 2020) available to critical sectors; the hours students work (at a favourable social security rate) in the second quarter of 2020 will not be counted in the annual quota of 475; those who are unemployed can return to work on a temporary basis from 1 April to 31 May 2020 and still receive 75% of their unemployment benefits.²¹

A number of measures have been introduced in the reporting period that can facilitate those who are in a precarious employment position, both in relation to work but also the impact of this precarity on their ability to sustain themselves in terms of food, rent and bills:

¹⁶ Belgium, Flanders Education and Training (*Flanders Onderwijs en vorming*), Coronavirus: guidelines for schools and CLBs ([Coronavirus: richtlijnen voor scholen en CLB's](#)) [last accessed 3 May 2020].

¹⁷ Belgium, Flanders Education and Training (*Flanders Onderwijs en vorming*), Preteaching new subject matter: guidelines for boards of directors ([Preteaching van nieuwe leerstof: richtlijnen voor directies](#)) [last accessed 3 May 2020].

¹⁸ Belgium, Flanders Education and Training (*Flanders Onderwijs en vorming*), Free wireless internet for pupils without internet connection ([Gratis wifi voor leerlingen zonder internettoegang](#)) [last accessed 3 May 2020].

¹⁹ Belgium, Flanders Education and Training (*Flanders Onderwijs en vorming*), All digital: looking for 10,000 laptops for vulnerable students ([Allemaal digitaal: op zoek naar 10.000 laptops voor kwetsbare leerlingen](#)), 25 March 2020.

²⁰ Belgium, Law of 27 March 2020 allowing the King to take a number of temporary measures to manage the consequences of the Covid epidemic-19 ([Loi du 27 mars habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(I\)](#) / [Wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 \(I\)](#)) Published in the Belgian Official Gazette on 30 March 2020.

²¹ Belgium, Royal Decree temporarily easing the conditions under which the unemployed, with or without a company supplement, can be employed in vital sectors and temporarily freezing the degressivity of full unemployment benefits ([Arrêté royal du 23 avril 2020 assouplissant temporairement les conditions dans lesquelles les chômeurs, avec ou sans complément d'entreprise, peuvent être occupés dans des secteurs vitaux et gelant temporairement la dégressivité des allocations de chômage](#)) Published in the Belgian Official Gazette 30 April 2020; Special Powers Order No. 14 of 27 April 2020 in implementation of Article 5, § 1, 5°, of the Act of 27 March 2020 granting powers to the King to take measures in the fight against the spread of the coronavirus COVID-19 (II) aimed at ensuring the proper organisation of work in critical sectors ([Arrêté de pouvoirs spéciaux n° 14 du 27 avril 2020 pris en exécution de l'article 5, § 1, 5°, de la loi du 27 mars 2020 accordant des pouvoirs au Roi afin de prendre des mesures dans la lutte contre la propagation du coronavirus COVID-19 \(II\) visant à garantir la bonne organisation du travail dans les secteurs critiques](#)) Published in the Belgian Official Gazette 30 April 2020.

From 28 April, in the **Brussels Capital Region**, additional financial support measures were introduced for service voucher companies and their employees (domestic workers). The state will fund the following measures: each company will receive a flat-rate of €4,000 and domestic workers who are temporarily unemployed will receive a gross supplement of EUR 2.50 per day of declared temporary unemployment and there will be a temporary increase of EUR 2 in regional intervention per service voucher.²²

From 23 April, in the **Walloon Region**, measures were introduced relating to property rental, namely the extension of a rental contract of a principal residence for exceptional circumstances resulting from the impossibility to move, can be done during the confinement period by mail or e-mail no later than 5 days before the expiry of the rental contract and tenants who have jointly suffered a loss of at least 15% of their income as a result of the containment measures may terminate the rental contract at any time by giving one month's notice and paying one month's rent to the landlord.²³

Similarly, in **Flanders**, since 31 March, temporary measures for the private rental market have been introduced, namely, tenants may request an extension of the rental contract from the landlord by e-mail during the period of the application of the coronavirus control measures due to extraordinary circumstances and the execution of all judicial decisions ordering expulsion shall be suspended.²⁴ Further measures were introduced from 15 April 2020, to assist those in the private rental market with special social loans, rental subsidies and premiums.²⁵

On 22 April, in the **Walloon Region**, a new modification of the Decree of 31 March 2020, introduced a monthly bonus paid for trainees regardless of the economic sector whose execution of the traineeship contract has been suspended or whose traineeship contract has expired or has been terminated, as a result of the covid-19 measures.²⁶

²² Belgium, Order No. 2020/012 of the Government of the Brussels-Capital Region of special powers relating to the introduction of support measures for companies approved in the form of service vouchers and their workers following emergency measures to limit the spread of coronavirus COVID-19 (*Arrêté n° 2020/012 du 23 avril 2020 de pouvoirs spéciaux relatif à l'instauration de mesures de soutien des entreprises agréées en titres-services et de leurs travailleurs suite aux mesures d'urgence pour limiter la propagation du coronavirus COVID-19*) Published in the Belgian Official Gazette 28 April 2020.

²³ Belgium, Order no.22 of the Government of Walloon of 22 April 2020 taking various measures with regard to residential leases (*Arrêté du Gouvernement wallon du 22 avril 2020 de pouvoirs spéciaux n° 22 prenant des mesures diverses en matière de bail d'habitation*) Published in the Belgian Official Gazette 28 April 2020.

²⁴ Belgium, Order of the Flemish Government on measures in favour of private rental markets and following the coronavirus control measures taken by the National Security Council from the March 12, 2020 (*Arrêté du 27 mars 2020 relatif aux mesures en faveur des marchés de location privé et social à la suite des mesures de lutte contre le coronavirus prises par le Conseil national de sécurité à partir du 12 mars 2020*), Published in the Belgian Official Gazette 31 March 2020; Circular OMG/W 2020/2 concerning the temporary ban on evictions due to the coronavirus measures (*Omzendbrief OMG/W 2020/2 van 7 april 2020 betreffende het tijdelijk verbod op uithuiszettingen omwille van de coronavijsmaatregelen*), Published in the Belgian Official Gazette 14 April 2020.

²⁵ Belgium, Order of 3 April 2020 on measures in favour of Flemish housing policy instruments following the coronavirus-related measures taken by the National Security Council as from 12 March 2020 (*Arrêté du 3 avril 2020 relatif aux mesures en faveur des instruments de la politique flamande du logement à la suite des mesures relatives au coronavirus prises par le Conseil national de sécurité à partir du 12 mars 2020*) Published in the Belgian Official Gazette 15 April 2020.

²⁶ Belgium, Order of Special Powers No. 23 of 22 April 2020 amending Order of the Walloon Government of Special Powers No. 11 of 31 March 2020 on the various measures taken in the field of employment, training and socio-professional integration, including in the field of the social economy (*Arrêté de pouvoirs spéciaux n° 23 du 22 avril 2020 modifiant l'arrêté du Gouvernement wallon de pouvoirs spéciaux n° 11 du 31 mars 2020 relatif aux diverses dispositions prises en matière d'emploi, de formation et d'insertion socioprofessionnelle, en ce compris le champ social*) Published in the Belgian Official Gazette 30 April 2020.

Since 7 April, the **Government of the French Community** have increased the budget for 2020, providing additional financial aid for those who have been impacted by the containment measures either by facing additional expenditure or by suffering a loss of purchasing power.²⁷

On 3 April, the **Flemish Government** introduced financial support for those who are engaged in outreach work,²⁸ that allows outreach workers to receive 70% of their allowance (through job cheques).²⁹

In **Belgium**, from 1 April, in light of the Royal Decree of 31 March 2020, Public Centres for Social Action (*Centre public d'action sociale CPAS/ Openbaar centrum voor maatschappelijk welzijn OCMW*) received a subsidy to be able to give the most vulnerable people the opportunity to buy food.³⁰ The subsidy is aimed at those who in a precarious situation, including those who receive a living wage or any other form of social benefits. However, the targeted population and the scope of the financial support to food banks is not to be limited to people who are entitled to a living wage or other social benefit.³¹

On 25 March, in **Belgium**, a regime of total suspension of the execution of the employment contract and/or a regime of reduced working hours in case of lack of work resulting from economic causes for employees due to the coronavirus crisis was established by Royal Decree.³²

The Ministerial Order of 23 March 2020 does not define “essential services or crucial sectors” but instead outlines, in the Annex, the professions that are deemed to be under the remit of essential services and crucial sectors during the confinement period. The list was updated by the decree of 17 April 2020 to include services performed by chartered accountants, tax consultants, and chartered tax accountants.

The amended decree of 17 April 2020 extended the list of businesses that could re-open: including telecommunications stores, excluding stores that sell only accessories, but only for emergencies, receiving only one customer at a time by appointment; medical device stores, but only for emergencies, with only one customer at a time, by appointment; general DIY stores that mainly sell tools and/or building materials; garden centres and nurseries that mainly sell plants and/or trees; wholesale shops intended for professionals, but only for the benefit of professionals. These businesses

²⁷ Belgium, Order of 7 April 2020 of special powers No. 2 issued in implementation of the decree of 17 March 2020 granting special powers to the government in the context of the health crisis of COVID-19 relating to the creation of an emergency and support fund (*Arrêté du 7 avril 2020 de pouvoirs spéciaux n° 2 pris en exécution du décret du 17 mars 2020 octroyant des pouvoirs spéciaux au gouvernement dans le cadre de la crise sanitaire du COVID-19 relatif à la création d'un fonds d'urgence et de soutien*), Published in the Belgian Official Gazette 10 April 2020.

²⁸ Belgium, The aim of outreach work is to enable jobseekers who are far removed from the labour market to acquire temporary work experience in a working environment within everyone's reach, close to their homes. In return, the jobseekers receive a small allowance in addition to their unemployment benefit.

²⁹ Order of the Flemish Government amending the Order of the Flemish Government of 29 September 2017 on outreach work, with regard to the measures taken for outreach work following the coronavirus (*Arrêté du Gouvernement flamand modifiant l'arrêté du Gouvernement flamand du 29 septembre 2017 relatif au travail de proximité, en ce qui concerne les mesures prises pour le travail de proximité suite au coronavirus*) Published in the Belgian Official Gazette 9 April 2020.

³⁰ Belgium, Royal Decree of 31 March 2020 on emergency food aid measures for the target groups of public social action centres (*Arrêté royal du 31 mars 2020 portant des mesures d'urgence en matières d'aides alimentaires à destination des publics cibles des centres publics d'action sociale*) Published in the Belgian Official Gazette 6 April 2020.

³¹ Belgium, Public Planning Service Social Integration, Circular concerning emergency food aid measures for the target groups of public social welfare centres ([*Circulaire concernant les mesures d'urgence en matières d'aides alimentaires à destination des publics cibles des centres publics d'action sociale*](#)) 3 April 2020 [last accessed 8 May 2020].

³² Royal Decree of 25 March 2020 making collective labour agreement No 147 of 18 March 2020, concluded within the National Labour Council, compulsory, establishing a regime of total suspension of the execution of the employment contract and/or a regime of reduced working hours in the event of a lack of work resulting from economic causes for employees due to the coronavirus crisis (1) (*Arrêté royal du 25 mars 2020 rendant obligatoire la convention collective de travail n° 147 du 18 mars 2020, conclue au sein du Conseil national du Travail, établissant un régime de suspension totale de l'exécution du contrat de travail et/ou un régime de travail à temps réduit en cas de manque de travail résultant de causes économiques pour les employés en raison de la crise du coronavirus (1)*) Published in the Belgian Official Gazette 10 April 2020.

are however subject to social distancing rules in accordance with article 2, that states that businesses must take the necessary measures to ensure compliance with the rules on social distancing, in particular the maintenance of a distance of 1.5 metres between each person. This rule also applies to transport organised by the employer. Non-essential businesses that are unable to comply with the above measures must close down.

1.2.4 Access to justice

On 9 April 2020, two Royal Decrees were introduced relating to measures taken in relation to court proceedings (both in civil and criminal procedure) and execution of sentences. The new measures introduced include:

- proceedings before the Indictments Chamber may be conducted in writing for the duration of the coronavirus pandemic;³³
- judge for the enforcement of sentences, the court for the enforcement of sentences or the social welfare chamber shall hear, for the duration of the crisis measures, only the counsel of the convicted person or detained person (and not the convicted person or detained person themselves) (see more below in section 1.3.4);³⁴
- a series of measures regarding criminal procedure and execution of sentences in order to reduce prison population in light of COVID-19. Possible measures include suspension of detention, early release, and suspension of the enforcement of penalties due to COVID-19, up to and including 17 May 2020 (see more below in section 1.3.4);³⁵
- limitation periods and other time limits for bringing an action before a civil court which expire before 3 May 2020 inclusive (extendable date) shall be automatically extended by one month after the end of that period.³⁶

On 20 April 2020 a Royal Decree introduced the time limits applicable to the institution and processing of proceedings before the Administrative Jurisdiction Division of the Council of State, which expire during the period from 9 April 2020 to 3 May 2020 inclusive, and the expiry of which may or could lead to foreclosure or another sanction if they are not processed within the time limits, are automatically extended by 30 days at the end of this period (Article 1(1). With exception of those

³³ Belgium, Royal Decree nr. 3 containing various provisions on criminal procedure and execution of sentences and measures in the context of the fight against the spread of the coronavirus COVID-19 (*Arrêté royal n° 2 concernant la prorogation des délais de prescription et les autres délais pour ester en justice ainsi que la prorogation des délais de procédure et la procédure écrite devant les cours et tribunaux / Koninklijk Besluit nr. 2 met betrekking tot de verlenging van de verjaringstermijnen en de andere termijnen om in rechte te treden, alsmede de verlenging van de termijnen van de rechtspleging en de schriftelijke behandeling voor de hoven en rechtbanken*) Published in the Belgian Official Gazette 9 April 2020.

³⁴ Belgium, Royal Decree nr. 3 containing various provisions on criminal procedure and execution of sentences and measures in the context of the fight against the spread of the coronavirus COVID-19 (*Arrêté royal n° 2 concernant la prorogation des délais de prescription et les autres délais pour ester en justice ainsi que la prorogation des délais de procédure et la procédure écrite devant les cours et tribunaux / Koninklijk Besluit nr. 2 met betrekking tot de verlenging van de verjaringstermijnen en de andere termijnen om in rechte te treden, alsmede de verlenging van de termijnen van de rechtspleging en de schriftelijke behandeling voor de hoven en rechtbanken*) Published in the Belgian Official Gazette 9 April 2020.

³⁵ Belgium, Royal Decree nr. 3 containing various provisions on criminal procedure and execution of sentences and measures in the context of the fight against the spread of the coronavirus COVID-19 (*Arrêté royal n° 2 concernant la prorogation des délais de prescription et les autres délais pour ester en justice ainsi que la prorogation des délais de procédure et la procédure écrite devant les cours et tribunaux / Koninklijk Besluit nr. 2 met betrekking tot de verlenging van de verjaringstermijnen en de andere termijnen om in rechte te treden, alsmede de verlenging van de termijnen van de rechtspleging en de schriftelijke behandeling voor de hoven en rechtbanken*) Published in the Belgian Official Gazette 9 April 2020.

³⁶ Belgium, Royal Decree No. 2 of 9 April 2020 on the extension of limitation periods and other time limits for bringing legal actions as well as on the extension of procedural time limits and written procedure before courts and tribunals (*Arrêté royal n° 2 du 9 avril 2020 concernant la prorogation des délais de prescription et les autres délais pour ester en justice ainsi que la prorogation des délais de procédure et la procédure écrite devant les cours et tribunaux*) Published in the Belgian Official Gazette 9 April 2020.

requests for suspension of action of extreme urgency and for requests for provisional measures of extreme urgency submitted during the period referred to in paragraph 1 (Article 1(2)).³⁷

1.2.5 Freedom of movement

Any person of Belgian nationality with or without residence in Belgium, long-term residents in Belgium and persons with a legal residence in Belgium, may **return to Belgium**, subject to two conditions. The person remains confined to the house for 14 days; and the person is prohibited from working outside the home for 14 days (even if they are employed in the country).³⁸

From 17 March 2020 – 3 April 2020, it was not possible to lodge an **application for asylum**. On 3 April 2020, the arrival centre (“Petit Chateau”) in Brussels was re-opened for priority cases through an online registration/appointment system.³⁹ Applicants for asylum must now first complete an online form that will be directly sent to the Immigration Office. The applicant will then receive a date and time for them to attend their interview. Any other ways of seeking to apply for asylum will not be accepted at this time.⁴⁰

Article 7 of the Ministerial Order of 23 March 2020 prohibits **non-essential travel from Belgium**. Since 22 March 2020, the borders have been closed for non-essential travel, however, the cross-border movement of goods and services is still allowed. Cross border commuters who work in vital sectors and crucial professions (listed in the Annex of the Ministerial Order of 23 March 2020) are able to cross the border between Belgium and its neighbouring countries, subject to special procedures.

Belgium – Netherlands⁴¹

Cross border commuters are able to use a vignette to cross the border between Belgium and the Netherlands. The vignette is the result of a consultation between Minister of Justice and Security Grapperhaus and Minister of the Interior and Kingdom Relations Knops and their Belgian colleague, Minister of Security and Interior Pieter De Crem. The vignette is designed to prevent border workers in vital sectors and crucial professions from being held up at the border.⁴² For those cross-border commuters who do not work in a vital sector or do not exercise a crucial profession must prove, by means of a declaration from their employer, that they are crossing the border to work. It is not allowed to cross Belgium to get from point A to point B in the Netherlands, including for commuting between home and work. However, an exception is made for people working in vital sectors and with crucial professions who make a business trip and hold a vignette. Violation of the ban on non-essential travel will be sanctioned. Compliance with this ban is actively monitored by the Belgian authorities. The use of a sticker based on incorrect information is a counterfeit. It is also a punishable offence.

For travel to other countries, there is a need for authorisation permits from the neighbouring country:

³⁷ Belgium, Royal Decree No. 12 of 21 April 2020 concerning the extension of the time limits for proceedings before the Council of State and the written procedure (*Arrêté royal n° 12 du 21 avril 2020 concernant la prorogation des délais de procédure devant le Conseil d'Etat et la procédure écrite/ Koninklijk besluit nr. 12 van 21 april 2020 met betrekking tot de verlenging van de termijnen van de rechtspleging voor de Raad van State en de schriftelijke behandeling van de zaken*) Published in the Belgian Official Gazette 22 April 2020.

³⁸ Belgium, Info Coronavirus, Frequently asked questions - International (*Foire aux questions*) [last accessed 3 May 2020].

³⁹ Belgium, Fedasil, Resumption of asylum applications (*Reprise des demandes d'asile*) 3 April 2020.

⁴⁰ Belgium, Immigration Office, Applications for international protection: COVID-19: Impact on administrative procedures (*Les demandes de protection internationale COVID-19 : incidences sur les procédures administratives*)

⁴¹ Belgium, Crisis Centre, Cross-border workers in vital sectors and crucial professions: a vignette to cross the border with the Netherlands faster (*Travailleurs transfrontaliers dans des secteurs vitaux et des professions cruciales : une vignette pour franchir la frontière avec les Pays-Bas plus rapidement*) 22 March 2020.

⁴² Belgium, The list of critical sectors and professions for the Netherlands can be found at <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/veelgestelde-vragen-over-coronavirus-en-kinderopvang/cruciale-beroepen>.

Belgium – France

When travelling for business trips to France it is necessary to be in possession of the following documentation: Certificate from the employer indicating the reason for this essential trip; Certificate of derogatory international travel to metropolitan France; Business trip receipt. Although there is no official permit required for travelling within Belgium, it is advised to use the Belgian permit authorising to cross the border that has been developed by the Federal Public Service for Employment, Labour and Social Dialogue.⁴³

Belgium – Luxembourg

The Luxembourg authorities have drawn up a certificate to be completed by the employer for Belgian frontier workers who have to cross the border between Belgium and Luxembourg to work in Luxembourg.⁴⁴

1.3 Impact of measures on particular groups

Government task forces on vulnerable groups

In **Belgium**, on 8 April 2020, the Federal Minister for Poverty Reduction and Minister of Social Inclusion announced that they will set up a task force on vulnerable groups. The task force aims to assess the impact of the COVID-19-policies on vulnerable groups, determine which groups fall outside the scope of socio-economic measures and suggest additional socio-economic measures accordingly. The task force consists of the Federal Ministers for Poverty Reduction and Social Inclusion and the Regional Ministers for Poverty and Social Action. It is assisted by a Working Group on the Social Impact of COVID-19, consisting of representatives of the administrations, and a consultative group that provides input from the field, consisting of experts from civil society organisations.⁴⁵

In **Flanders**, the Flemish Government set up a task force on vulnerable families. The task force aims to monitor the situation of vulnerable groups; transfer information from policy level to civil society and persons in a vulnerable position; determine issues and potential solutions in coordination with other areas and levels of Government. The task force consists of a working group of representatives of civil society, and a working group of representatives of the coordinating Minister for Poverty Reduction, the Minister-President and the Deputy Ministers-President.⁴⁶

In the **Walloon Region**, a social emergency task force was set up on 19 March by the Government, in collaboration with the Walloon Network against Poverty (RWLP). The task force aims to respond to issues in the context of the coronavirus epidemic that impact the most vulnerable groups. It is coordinated by the cabinet of the Minister-President and consists of representatives of all Walloon Ministers, as well as representatives of the RWLP, the Federation of Public Social Welfare Centres (CPAS), the Federation of Social Services (FDSS), the Walloon Public Service and the Walloon Agency for Quality of Life (AViQ). Depending on the topics, other stakeholders will also be consulted.⁴⁷

⁴³ Belgium, Federal Public Service for Employment, Labour and Social Dialogue Certificate proving the need to cross the border for frontier workers residing in France ([Certificat prouvant la nécessité de traverser la frontière pour les travailleurs frontaliers résidant en France](#)) [last accessed 3 May 2020].

⁴⁴ Belgium, Belgian Business Federation, Covid-19: borders, neighbouring countries and the EU ([Covid-19 : frontières, pays voisins et UE](#)) [last accessed 8 May 2020]

⁴⁵ Belgium, Federal Ministers for Poverty Alleviation, Nathalie Muylle, and for Social Integration, Denis Ducarme, Taskforce to help vulnerable people during the crisis ([Taskforce om kwetsbare mensen door coronacrisis te helpen](#)), 8 April 2020.

⁴⁶ Flemish Department of Well-being, Health and Family, Flemish Government sets up taskforce for vulnerable families ([Vlaamse regering richt taskforce kwetsbare gezinnen op](#)) 24 April 2020.

⁴⁷ Belgium, Government of Walloon Region, Launch of a “emergency social taskforce” coronavirus ([Lancement d’une “task force d’urgence sociale” coronavirus](#)), 19 March 2020.

1.3.1 Persons with Disabilities

Conditions and visits in residential care institutions

In **Belgium**, all visits to people residing in institutions for persons with disabilities were prohibited until 15 April, except for specific cases, such as in “crisis situations”, “end of life” situations or cases where “the psychosocial well-being of the resident is compromised.”⁴⁸ On 15 April, the National Security Council announced that residents would be allowed to have a single visitor, under the condition it is always the same person and he or she shows no signs of the virus.⁴⁹ This decision was met with a lot of criticism from the field as the institutions and care professionals had not been sufficiently consulted on this decision and felt they did not have the means to organise the visits in a timely and safe manner.⁵⁰ The director of one of the main care networks also pointed out that it was unclear how to designate the one visitor in situations of family conflict.⁵¹

In **Flanders**, the Government announced on 16 April that the decision to allow visits caused a great deal of commotion in the Flemish healthcare sector and among local authorities and it decided that it would not implement the new measure.⁵² On 29 April, the Flemish Agency for Persons with Disabilities decided to allow visits for residents again under strict conditions. As a minimum, there must be enough staff available to organise visits with respect for hygienic and safety measures, and the necessary protective gear must be available. The visit remains limited to closest relatives or trustees, with a maximum of one visitor at a time.⁵³

In the **Walloon Region**, the Walloon Minister for Employment, Social Action, Health and Equal Opportunities stated that institutions for persons with disabilities would not allow visitors yet after the Federal Government’s new measure was announced. The Walloon Government decided that all institutions would remain closed for visitors until all residents and staff have been tested.⁵⁴

In **Brussels**, visits were not possible immediately after the National Security Council’s announcement on 15 April either. The Agency for Persons with Disabilities (PHARE) issued new guidelines on 21 April

⁴⁸ Flemish Agency for Persons with Disabilities, [Infonota aan aanbieders van rechtstreeks toegankelijke hulp \(RTH- diensten\), groenezorginitiatieven, multifunctionele centra \(MFC\), observatie-/ diagnose- en behandelingsunits \(ODB\), organisaties voor vrijetijdszorg, ouderinitiatieven, forensische VAPH-un](#), 29 April 2020; Service Public Francophone Bruxellois, Circulaire pour les services non résidentiels, 12 March 2020

⁴⁹ Belgium, Measures of the national security council of 15 April 2020 ([Maatregelen van de Nationale Veiligheidsraad van 15 april](#)) 15 April 2020.

⁵⁰ Belgium, Belga, Residential care centres do not like Security Council decision: “More people will die ([‘Woonzorgcentra niet te spreken over beslissing Veiligheidsraad: “Er zullen meer mensen sterven”](#))”, Knack, 15 April 2020; Belgium, Verstraete, A., Much resistance to 1 visitor per resident in residential care centres, Beke wants postponement, Jambon wants consultation ([‘Veel verzet tegen 1 bezoeker per bewoner in woonzorgcentra, Beke wil uitstel, Jambon wil overleg’](#)), vrt NWS, 15 April 2020; Belgium, Vlemings, J., Prime Minister Wilmès on criticism of regular visitors in rest homes: “The current situation is inhuman, we had to do something about it ([‘Premier Wilmès over kritiek op vaste bezoeker in rusthuizen: “De huidige situatie is onmenselijk, daar moesten we iets aan doen”](#))”, Het laatste nieuws, 16 April 2020.

⁵¹ Belgium, Verstraete, A., Inge Vervotte about 1 visitor per resident in care centres: “Within a family it is not always peis en vree” ([‘Inge Vervotte over 1 bezoeker per bewoner in zorgcentra: “Binnen een familie is het niet altijd peis en vree”](#)’), VRT NWS, 16 April 2020.

⁵² Belgium, Flemish Government Crisis Centre, Approach to visit scheme for residential care centres and other institutions ([‘Aanpak bezoekregeling woonzorgcentra en andere instellingen’](#)), 16 April 2020.

⁵³ Belgium, Flemish Agency for Persons with Disabilities, Infonote to providers of directly accessible assistance (RTH services), multifunctional centres (MFC), observation, diagnosis and treatment units (ODB), parent initiatives, forensic VAPH units, licensed care providers (VZA) ([‘Infonota aan aanbieders van rechtstreeks toegankelijke hulp \(RTH- diensten\), multifunctionele centra \(MFC\), observatie-, diagnose- en behandelingsunits \(ODB\), ouderinitiatieven, forensische VAPH-units, vergunde zorgaanbieders \(VZA\)’](#)), 29 April 2020.

⁵⁴ Belgium, Nizet, P., Christie Morreale: “Nursing homes won't reopen on Monday ([‘Christie Morreale: “Les maisons de repos ne rouvriront pas lundi”](#))”, La Nouvelle Gazette, 16 April 2020.

for institutions for persons with disabilities, allowing visits by a single family member or trustee, provided it is always the same visitor.⁵⁵

The media reported that persons with disabilities in institutions are facing particular difficulties due to the measures of confinement, as residents are not able to leave and have no contact with their family (except by telephone or Messenger).⁵⁶ Many persons with disabilities residing in institutions have not seen their family for weeks. The Director of an institution reported that on 24 April, for the first time since the lockdown, residents could see their family in specially set up tents with plexiglass. One family member reports she had not seen her daughter since 11 March.⁵⁷

In addition, there is a lack of protective equipment available for residential care institutions for persons with disabilities. The Director of the Flemish Welfare Association reports that supplies provided by the Government are not sufficient and institutions are having to rely on donations or homemade mouth masks.⁵⁸

Access to health care

In **Belgium**, the National High Council for Persons with Disabilities raised concerns about access to intensive care services for persons with disabilities. It noted that it is unclear whether disability is used as a criterion for access to intensive care ('triage'). The Council is also concerned there might be 'upstream triage', referring to potential lack of referral of persons with disabilities staying in residential institutions to hospitals. The Council therefore strongly urged that the ethical guidelines for medical practitioners⁵⁹ be modified in order to ensure equal access to healthcare for all.⁶⁰

Unia, the Interfederal Centre for Equal Opportunities, also stated that due to social distancing measures, persons with disabilities and older persons do not have equal access to health care. Reported cases included older persons and persons with disabilities being given oxygen in an institution without medical supervision. A person with an intellectual disability was also told to leave a hospital because he cried and shouted too much. And many older people and people with disabilities are told that they are 'not a priority'. Unia therefore asked the Belgian Advisory Committee on Bioethics to urgently adopt a statement on discrimination against persons with disabilities and older people in access to care.⁶¹

Access to supermarkets and other stores

In **Belgium**, Unia, the Interfederal Centre for Equal Opportunities raised concerns about the accessibility of supermarkets for persons with disabilities after having received complaints on this

⁵⁵ Belgium, Service Public Francophone Bruxellois (2020), Instructions to day centres and accommodation centres for the disabled (['Consignes aux centres de jour et d'hébergement accueillant des personnes handicapées'](#)), 21 April 2020.

⁵⁶ Belgium, Debelder, E., The handicapped, the forgotten of the crisis (['Les handicapés, les oubliés de la crise'](#)), L'Avenir, 18 April 2020.

⁵⁷ Belgium, Dreesen, M., Parents can finally visit their child in the 'chat tent' of HBvL. (['Ouders kunnen eindelijk hun kind bezoeken in 'babbeltent' van HBvL'](#)) Het Belang van Limburg, 24 April 2020.

⁵⁸ Belgium, Huyghebaert, P., Centers for people with disabilities do not have enough protective material: 'I'm holding my heart for the next few days' (['Centra voor mensen met beperking hebben te weinig beschermingsmateriaal: "Ik hou mijn hart vast voor de komende dagen"'](#)), VRT NWS, 7 April 2020.

⁵⁹ Belgium, Belgian Society of Intensive Care Medicine, ['Ethical principles concerning proportionality of critical care during the 2020 COVID-19 pandemic in Belgium: advice by the Belgian Society of Intensive care medicine'](#), 17 March 2020.

⁶⁰ Belgium, National High Council for Persons with Disabilities (*Nationale Hoge Raad voor Personen met een Handicap*), COVID-19: Access to intensive care for persons with disabilities. An absolute right. Also for people living in institutions! (['COVID-19: Toegang tot intensieve zorg voor personen met een handicap. Een absoluut recht. Ook voor mensen die in instellingen wonen.'](#)), 10 April 2020.

⁶¹ Belgium, Unia, ['Les personnes handicapées et les personnes âgées ont le droit d'être soignées'](#), 10 April 2020.

issue. Unia therefore urged Comeos, the representative of Belgian Trade and Services, to take into account the particular needs of persons with disabilities by, for example, giving them priority access during certain time slots, allowing them to skip lines, retaining the option of paying in cash etc.⁶²

The media also reported a father being denied access to a supermarket with his autistic son. The father was told he could enter the store by himself, but had to leave his son in the car.⁶³ A woman with a physical disability also reported that she was denied access to a supermarket and a garden centre because she could not push a shopping cart. Many supermarkets are currently obligating all customers to use a shopping cart to ensure social distancing.⁶⁴ Grocery shopping has also become very difficult for persons with visual impairments who rely on other senses, such as touch, to find their way.⁶⁵

Access to public transportation

In **Belgium**, the National Railway Service (NRS) suspended all assistance to persons with disabilities and with reduced mobility as of 21 March 2020 in light of the COVID-19-outbreak. In response, Unia, the Interfederal Centre for Equal Opportunities, raised concerns about the lack of assistance for persons with disabilities on trains, which prevented many from going to work. It pleaded with the national railway services to continue to organise assistance for persons with disabilities for all essential travel.⁶⁶ The NRS subsequently announced that it will resume assistance from 4 May onwards under strict conditions. For instance, all assistance will have to be reserved 24 hours in advance in all stations and no physical contact is allowed.⁶⁷ In response, the National High Council for Persons with Disabilities stated that the assistance will not be effective due to the lack of direct physical contact allowed between traveller and railway employee, especially for persons with visual impairments. The Council therefore requested the NRS to find a suitable solution, noting that with the correct use of mouth masks, disinfectant gel, gloves, etc., assistance with physical contact can proceed safely.⁶⁸

Lack of support for families of persons with disabilities

In **Belgium**, persons with disabilities who returned home at the beginning of the Coronavirus outbreak have since not been able to return to care centres. Media have reported that many families are struggling because they now have taken care of family members with disabilities – including children – at home fulltime.⁶⁹ The organisation “Gezin en Handicap” reports that it has received cries for help from several parents. Many children with autism or an intellectual disability, are struggling with all the sudden changes. They no longer go to school or to a day centre, their day looks completely different. This often results in difficult behaviour. Parents also have to take time off work to be able to care for their children at home.⁷⁰ Parents of children with severe mental or physical disabilities are at risk of

⁶² Belgium, Unia, Unia is concerned about the accessibility of supermarkets during lockdown (*‘Unia s’inquiète au sujet de l’accessibilité des supermarchés pendant le confinement’*), 1 April 2020.

⁶³ Belgium, Wibaut, H., He's not allowed in the store with his autistic son. (*‘On lui interdit l'accès au magasin avec son fils autiste’*), La Meuse 30 March 2020.

⁶⁴ Belgium, Samyn, B., Impossible to use the shopping trolley: Martine, Softenon victim, says she was rejected from a supermarket and garden centre (*‘Impossible d'utiliser le caddie: Martine, victime du Softenon, déclare avoir été rejetée d'un supermarché et d'une jardinerie’*), RTL 25 April 2020.

⁶⁵ Belgium, La Capitale, Friends of the blind mobilize (*‘Les amis des aveugles se mobilisent’*), La Capitale, 23 March 2020.

⁶⁶ Belgium, Unia, Unia appeals to SNCB following the suspension of its assistance service (*‘Unia interpelle la SNCB suite à la suspension de son service d'assistance’*), 24 March 2020.

⁶⁷ Belgium, NMBS, Travellers with restricted mobility (*‘Reizigers met beperkte mobiliteit’*) [last accessed 3 May 2020].

⁶⁸ Belgium, National High Council for Persons with Disabilities (2020), Relaxation of lockdown at SNCB Not every person with a disability receives assistance (*‘Versoepeling lockdown bij de NMBS Niet elke persoon met een handicap krijgt assistentie’*), 30 April 2020.

⁶⁹ Belgium, El Massaoudi, S., Confinement also has an impact on people with disabilities: "Families won't last long. (*‘Le confinement impacte aussi les personnes handicapées: “les familles ne tiendront pas longtemps”*)", La Libre, 21 March 2020.

⁷⁰ Belgium, Parton, E., Family and Disability about the corona measures: "We have already received a cry for help from several parents. (*‘Gezin en Handicap over de coronamaatregelen: “We hebben al van verschillende ouders een hulpkreet gekregen”*)", De Wereld Morgen 31 March 2020.

financial and emotional difficulties. There is not enough staff available to help assist and care for children with disabilities at home.⁷¹

1.3.2 Older persons

Conditions in care homes

In **Belgium**, the Flemish Government has been publicly criticized for not taking action quickly enough to prevent the COVID-19 outbreak in care homes for older persons. The Flemish Minister of Wellbeing presented his emergency plan for the care homes on 8 April. In Parliament, opposition members stated that there was a serious crisis going on in the care homes due to the high number of infections and that actions proposed by the Minister were too little, too late.⁷² Media also reported that care homes were angry about the lack of action, stating that testing was insufficient and communication was poor. In addition, they complained of the lack of mouth masks and other protective gear.⁷³

Amnesty International Belgium expressed its concern in a press release on the rights of older persons in care homes, stating that their situation is very worrying. Amnesty's director, Wies De Graeve, notes that "the first focus has been on emergency measures to rectify the situation, but as soon as possible a thorough evaluation and identification of what is needed to respect and guarantee the rights of older people in all residential care centres - including during crisis situations - should be carried out."⁷⁴

Visits in care homes

In **Belgium**, the Federal Government decided on 15 April to allow one visitor at a time in institutions for persons with disabilities and care homes for the elderly, under the condition it is always the same person and he or she shows no signs of the virus.⁷⁵ As noted above, this decision was met with a lot of criticism from the care sector who believed it was too early for this measure and they did not have the necessary means to safely organise visits.⁷⁶

In **Flanders**, the Flemish Minister of Wellbeing stated on 28 April that he does not yet want to provide a specific date on which visits in care homes will be able to resume. The Minister also stated not all care centres will be able to reopen at the same time, those without any COVID-19 cases will be allowed to have visitors sooner than others.⁷⁷

⁷¹ Belga (2020), Urgent need for more assistance for parents of children with disabilities ([‘Dringend meer bijstand nodig voor ouders van kinderen met beperking’](#)), Het Nieuwsblad, 24 April 2020.

⁷² Belgium, Willems, F., After harsh criticism of residential care centre policy: Minister of Welfare Beke (CD&V) comes up with emergency plan and task force ([‘Na harde kritiek op beleid woonzorgcentra: minister van Welzijn Beke \(CD&V\) komt met noodplan en taskforce’](#)), VRT NWS, 8 April 2020.

⁷³ Belgium, Baert, D., Aerts, E. and Van Rompuy, H. (2020), Anger in residential care centres: "Intervened too late", Minister Beke: "Already at the beginning of the corona crisis on the agenda" ([‘Boosheid in woonzorgcentra: “Te laat ingegrepen”, minister Beke: “Al bij het begin van de coronacrisis op de agenda”](#)), VRT NWS, 8 April 2020.

⁷⁴ Belgium, Amnesty International, One month lockdown - preliminary balance sheet for human rights in Belgium ([‘Eén maand lockdown – voorlopige balans voor de mensenrechten in België’](#)), 18 April 2020.

⁷⁵ Belgium, Measures taken by the National Security Council on 15 April ([‘Maatregelen van de Nationale Veiligheidsraad van 15 april’](#)), 15 April 2020.

⁷⁶ Belgium, Belga, Residential care centres do not like Security Council decision: "More people will die" ([‘Woonzorgcentra niet te spreken over beslissing Veiligheidsraad: “Er zullen meer mensen sterven”](#)), Knack, 15 April 2020; Belgium, Verstraete, A., Much resistance to 1 visitor per resident in residential care centres, Beke wants postponement, Jambon wants consultation ([‘Veel verzet tegen 1 bezoeker per bewoner in woonzorgcentra, Beke wil uitstel, Jambon wil overleg’](#)), vrt NWS, 15 April 2020; Belgium, Vlemings, J., 'Prime Minister Wilmès on criticism of regular visitors in rest homes: "The current situation is inhuman, we had to do something about it" ([‘Premier Wilmès over kritiek op vaste bezoeker in rusthuizen: “De huidige situatie is onmenselijk, daar moesten we iets aan doen”](#))', Het laatste nieuws, 16 April 2020.

⁷⁷ Belgium, Visits will not be possible in all residential care centres at the same time ([‘Bezoek zal niet in alle woonzorgcentra tegelijk mogelijk zijn’](#)), De Standaard 28 April 2020.

In the **Walloon Region**, as noted above, the Walloon Minister for Employment, Social Action, Health and Equal Opportunities stated that care homes would not allow visitors until testing is completed.⁷⁸ On 27 April, the Walloon Government subsequently announced the conditions for visits in the care homes for elderly persons. The visitor will have to bring his or her own surgical mask, the distance rules must be observed and it will be strictly forbidden to hand objects directly to residents. In any case, children under 12 years of age will not be allowed to enter a care home.⁷⁹ The Walloon Health Minister confirmed in the media that all staff and residents of the Walloon care homes for elderly will have been tested by 3 May, which will then open up the possibility of visits under strict conditions and if the organisation and sanitary equipment allow it.⁸⁰

In **Brussels-Capital Region**, the Government reached an agreement on the conditions of visits in care homes for the elderly on 23 April. The spokesperson of the Brussels Minister of Health and Wellbeing announced in the press, however, that although the new rules are in place, visits will only be possible once everyone has been tested, and the residential care centre in question has all the means to manage the visit. Weekly, only one regular visitor per resident will be admitted, and the duration of the visit may be limited by the rest home. Visitors must adhere to strict hygiene measures, including compulsory wearing of a mask and keeping a distance.⁸¹

Access to health care

In **Belgium**, Unia, the Interfederal Centre for Equal Opportunities, raised concerns about the potential limited access to health care for older persons and persons with disabilities infected with the COVID-19-virus.⁸²

On 19 March, the Belgian Society for Gerontology and Geriatrics issued guidelines for health care professionals to help assess whether or not to admit an older person to hospital. And this to avoid the weakest patients being transferred who will clearly not survive.⁸³ The guidelines have been criticized in the media, as they devote a great deal of attention to the medical side, but ignore the options available to the patient. For instance, in the case of patients with a score greater than or equal to 7 on the clinical frailty scale (complete dependence on someone else's care), the document recommends first looking at the wishes in early care planning and then consulting the "family". As far as the latter is concerned, why medical staff would not consult the patient him/herself if that is still possible. As an Ethics professor points out, nothing in the "frailty score" 7 to 9 prevents the patient from still being able to make judgements. Informed consent of the patient is the legal and also the ethical standard.⁸⁴

The director of a care home for elderly also stated in the media that normally it would be the attending physician who would make the decision whether or not to transfer to a hospital. However, in current circumstances doctors rarely set foot in the care homes anymore. In practice, the decision is therefore

⁷⁸ Belgium, Nizet, P., 'Christie Morreale: "Rest homes won't reopen on Monday... (*Les maisons de repos ne rouvriront pas lundi*)"', La Nouvelle Gazette, 16 April 2020.

⁷⁹ Belgium, Cabinet of the Vice-President, Minister of Employment, Education, Health, Social Action, Equality and Human Rights, Covid-19 (coronavirus) - Guidelines for supervised visits to approved accommodation and reception establishments in Wallonia (*'Covid-19 (coronavirus) – Consignes relatives aux visites encadrées dans les établissements d'hébergement et d'accueil agréés en Wallonie'*), 27 April 2020.

⁸⁰ Belgium, One more step towards visits to Walloon nursing homes? "Everyone will have been tested by Sunday (*'Une étape de plus vers des visites dans les maisons de repos wallonnes? "Tout le monde aura été testé dimanche"*)', La Libre, 29 April 2020.

⁸¹ Belgium, Vanderstichele, S., Possibility of visiting residential care centres in Brussels under strict conditions (*'Bezoek onder strikte voorwaarden mogelijk in Brusselse woonzorgcentra'*), Bruzz, 23 April 2020.

⁸² Belgium, Unia, Disabled and elderly people have the right to be cared for (*'Les personnes handicapées et les personnes âgées ont le droit d'être soignées'*), 10 April 2020.

⁸³ Belgium, Belgian Association for Gerontology and Geriatrics, Decision on admission possible COVID Pos WZC resident (*'Beslissing bij opname mogelijk COVID Pos WZC bewoner'*), 19 March 2020.

⁸⁴ Belgium, Mortier, F., Regulation for weakest rest home residents with corona infection is ethically flawed (*'Regeling voor zwakste rusthuisbewoners met coronabesmetting schiet ethisch tekort'*), De Tijd, 24 March 2020.

made by telephone, trying as best as possible to follow the wishes of the resident and his family. The director also points out that care homes simply do not have the same equipment as hospitals.⁸⁵

Access to public transportation

In **Belgium**, the National Railway Service has reinstated assistance for persons as of May 4th, albeit without any physical contact.⁸⁶ The National High Council for Persons with Disabilities therefore thinks the assistance will be insufficient for a number of groups, including persons with reduced mobility.⁸⁷ This could thus also affect certain older persons.

1.3.3 Detainees

Protection measures in prison

In **Belgium**, the Federal Minister of Justice announced a series of measures on 21 March to protect prison staff and prisoners from COVID-19. No visits have been allowed since 13 March. To compensate for this, detainees receive 20 euros extra phone credit.⁸⁸ Measures were also taken on the modalities of execution of sentences granted to detainees, namely early release, penitentiary leave and limited detention (see *infra*). In addition, for all interventions staff must wear a mouth mask. Work studios, however, remain open (see *infra*).⁸⁹

The Central Council of Penitentiary Surveillance (CCPS) called on the federal Government to urgently strengthen health and humanitarian measures in prisons on 30 March. It noted that in the overcrowded prisons, often with a lack of hygiene, it is impossible to adequately implement prevention and care measures. It therefore recommended to reduce the prison population to the maximum capacity of each facility. The CCPS also proposed several measures to improve the situation of detainees, such as making phone calls free of charge, and ensuring sufficient hygiene products and access to running water.⁹⁰

Criminal procedure and execution of sentences

As stated above in section 1.2.4, a Royal Decree introduced a series of measures regarding criminal procedure and execution of sentences in order to reduce prison population in light of COVID-19. According to Marc Nève, president of the Central Council of Penitentiary Surveillance, there is a positive evolution as the total number of detainees has decreased from 10.800-10.900 to 9.635.⁹¹ Media also reported that several prisons have implemented these measures and released detainees.

⁸⁵ Belgium, Mergen, S., Coronavirus: Are we abandoning our elders? The delicate question of death in nursing homes ([‘Coronavirus: abandonne-t-on nos aînés? La délicate question de la mort en maison de repos’](#)), rtbf, 10 April 2020.

⁸⁶ Belgium, NMBS, Travellers with reduced mobility ([‘Reizigers met beperkte mobiliteit’](#)), [last accessed 3 May 2020].

⁸⁷ Belgium, National High Council for Persons with Disabilities, Relaxation of lockdown at SNCB Not every person with a disability receives assistance ([‘Versoepeling lockdown bij de NMBS Niet elke persoon met een handicap krijgt assistentie’](#)), 30 April 2020.

⁸⁸ Belgium, Koen Geens, Minister of Justice, Also mouth masks ordered for guards ([‘Ook mondmaskers besteld voor cipiers’](#)), 23 March 2020.

⁸⁹ Belgium, Koen Geens, Minister of Justice, Prison staff provide essential service to the State - measures to protect against Coronavirus ([‘Gevangenispersoneel levert essentiële dienst voor de staat - maatregelen ter bescherming tegen Coronavirus’](#)), 21 March 2020.

⁹⁰ Belgium, Central Council of Penitentiary Surveillance, Prisons: Government called for urgent strengthening of health and humanitarian measures ([‘Gevangenissen: Regering opgeroepen tot dringende versterking van de gezondheid en humanitaire maatregelen’](#)), 30 March 2020.

⁹¹ Belgium, Le Soir, The gradual resumption of visits is envisaged ([‘La reprise progressive des visites est envisagée’](#)), Le Soir 20 April 2020.

For instance, 147 detainees have left the Antwerp prison since the start of the Coronavirus outbreak⁹² and the Hasselt prison has released 20 detainees.⁹³

Reports on conditions of detention

In **Belgium**, Amnesty International expressed concerns about the situation of detainees in prison. It stressed that restrictions on the rights of detainees must be necessary, proportionate and temporary. The severely weakened contact between prisoners and detainees and the outside world must be consistently accommodated by alternatives, and external monitoring is essential.⁹⁴ The NGO "Relais parents et enfants" announced that Lantin prison would introduce video calls to stay in touch with detainees. The video calls are, however, only possible in 4 out of over 30 prisons.⁹⁵

Media reported negative effects of the suspension of visits on detainees and their families. One woman states it is difficult to obtain any information on her husband's condition and her child does not understand the situation. It was also reported that inside prisons the situation remains very worrying. In addition to the fear of being contaminated by the virus, there are harsh conditions due to confinement, such as suspension of activities, limited time in the yard etc. A detainee in Nivelles states "Something has to change. Prisons will end up exploding from the inside when no one will be able to control their nerves".⁹⁶

Media also reported that as a result of social distancing measures, at the end of March, the prison of Jamioulx was shaken by serious tensions. Inmates were angry because of their conditions of detention and refused to return to their cells. According to Jacques Périquet, the secretary of the Jamioulx prison supervisory commission, the situation now seems to be calming down within the prison.⁹⁷

Another worrying phenomenon being reported in media is prisoners hiding symptoms out of fear of being treated "like they have the plague" and being put in isolation. It is also reported that it is impossible to respect social distancing inside due to overcrowding. Within the prisons, fear reigns. One inmate reports that cells are not connected to running water. After 9 p.m., the doors are closed and inmates have to use plastic bags or buckets to go to the bathroom.⁹⁸

Finally, Marc Nève, president of the Central Council of Penitentiary Surveillance, stated in the press that many prisoners complain about not receiving enough food, even though with fewer prisoners it would have been possible to increase portions.⁹⁹

Work

⁹² Belgium, Van der Aa, J. and Taelman, J., Corona opens door for 147 inmates in Antwerp prisons ([*'Corona opent deur voor 147 gedetineerden in Antwerpse gevangenissen'*](#)), *Gazet van Antwerpen*, 29 April 2020.

⁹³ Belgium, Mariotti, M., Hasselt prison releases 20 prisoners because of corona: "Part has to return to serve sentence" ([*'Gevangenis Hasselt laat 20 gedetineerden vrij vanwege corona: "Deel moet terugkeren om straf verder uit te zitten"'*](#)), *Het Laatste Nieuws*, 20 April 2020.

⁹⁴ Belgium, Amnesty International, One month lockdown - preliminary balance sheet for human rights in Belgium ([*'Eén maand lockdown – voorlopige balans voor de mensenrechten in België'*](#)), 18 April 2020.

⁹⁵ Belgium, Le Soir, The gradual resumption of visits is envisaged ([*'La reprise progressive des visites est envisagée'*](#)), Le Soir 20 April 2020.

⁹⁶ Belgium, Hovine, A., More visits, more activities, limited forecourts: Belgian prison inmates are in despair ([*'Plus de visites, plus d'activités, préaux limités: les détenus des prisons belges sont désespérés'*](#)), *La Libre Belgique* 30 April 2020.

⁹⁷ Belgium, Henrard J.L., Coronavirus, Jamioulx: a toll-free number to support prisoners ([*'Coronavirus, Jamioulx: un numéro vert pour soutenir les détenus'*](#)), *L'Avenir* 21 April 2020.

⁹⁸ Belgium, Wauters, L., Coronavirus in prisons: "Here, inmates hide their symptoms because they don't want to be treated like plague victims" ([*'Coronavirus dans les prisons: "Ici, les détenus cachent leurs symptômes parce qu'ils n'ont pas envie d'être traités comme des pestiférés"'*](#)), *Le Soir* 19 April 2020.

⁹⁹ Belgium, Wauters, L., Coronavirus in prisons: "Here, inmates hide their symptoms because they don't want to be treated like plague victims" ([*'Coronavirus dans les prisons: "Ici, les détenus cachent leurs symptômes parce qu'ils n'ont pas envie d'être traités comme des pestiférés"'*](#)), *Le Soir* 19 April 2020.

In **Belgium**, the spokesperson for the Board of Criminal Institutions, states that especially in the Flemish prisons work studios remained open and there are still a thousand prisoners at work. Prisoners have also been sewing a large number of mouth masks.¹⁰⁰ Since the beginning of the Covid-19 outbreak, prisoners have produced 27.350 mouth masks, for prison staff and prisoners as well as other Government agencies.¹⁰¹

Health

In **Belgium**, the spokesperson for the Board of Criminal Institutions stated in the press that there have been no COVID-19 related deaths in Belgian prisons. Fourteen prisoners who are infected were transferred to a COVID-19 ward of the Bruges prison or a hospital. Fifty others who show symptoms but have not been tested are quarantined in their cells.¹⁰²

Human rights monitoring

In **Belgium**, the Central Council of Penitentiary Surveillance (CCPS) had suspended all visits of prisons at the start of the COVID-19 outbreak. More recently it announced that as of 16 April 2020, it modified that decision and one member of the CCPS would be allowed to enter the prison to empty the CCPS' mailboxes. In addition, the person concerned may also speak to the members of staff present, staff of the external services and those responsible for the prison administration. Individual conversations with detainees are not resumed yet in order to limit the risk of infection. However, some Supervisory Commissions¹⁰³ have decided not to resume visits altogether.¹⁰⁴

Access to justice

In **Belgium**, lawyers are still granted access to prisons.¹⁰⁵ The Board of Courts and Tribunals decided that cases can only be handled if and to the extent that the hygiene rules can be guaranteed from personal distance. The transfers of detained persons must be limited as much as possible and lawyers are also explicitly asked to represent their detained clients. Exceptions may be decided by the chairman of the criminal division concerned. In addition, judgments in criminal cases may be postponed until the week of 4 May 2020 or later, unless a person has been arrested or if the judgment is urgent. The judge or the President of the Chamber will decide on the urgency.¹⁰⁶

¹⁰⁰ Belgium, Eeckhaut, M., Prisons keep virus out for the most part ([‘Gevangenisissen houden virus grotendeels buiten’](#)), De Standaard 24 April 2020.

¹⁰¹ Belgium, Koen Geens, Minister of Justice, Detainees make 27,000 masks ([‘Gedetineerden maakten 27.000 mondkapen’](#)), 9 April 2020.

¹⁰² Belgium, Eeckhaut, M., , Prisons keep virus out for the most part ([‘Gevangenisissen houden virus grotendeels buiten’](#)), De Standaard 24 April 2020.

¹⁰³ Belgium, There is a Supervisory Commission for each of the 36 prisons in Belgium, whose task is to independently monitor the prison, the treatment of persons in detention and the respect for their human rights. They do so by, amongst others, visiting the prisons, talking with prisoners and staff, and mediating between the prisoners and prison's directors when necessary. Basic Act of 12 January 2005 on detention and the legal status of detainees ([Basiswet betreffende het gevangeniswezen en de rechtspositie van de gedetineerden](#)), published in the Belgian official gazette 1 February 2005.

¹⁰⁴ Belgium, Central Council of Penitentiary Surveillance, Bulletin de Liaison 04/2020.

¹⁰⁵ Belgium, Federal Government Department of Justice, Custom coronavirus services (COVID-19) ([‘Aangepaste dienstverlening door coronavirus \(COVID-19\)’](#)) [last accessed 3 May 2020].

¹⁰⁶ Belgium, Board of Courts and Tribunals, Updating of the mandatory guidelines of the College of Courts and Tribunals ([‘Actualisatie van de dwingende richtlijnen van het College van de hoven en rechtbanken’](#)), 15 April 2020.

2 Users' data - privacy and data protection

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

On 17 April, different media sources reported that the Belgium government was exploring the possibility of using tracing apps during the deconfinement period. Le Soir, in its printed version of 17 April,¹⁰⁷ stated that the cabinet of the Minister for the Digital Agenda, Telecommunications and Post, Philippe De Backer, had received several proposals and was examining them with regards to private life and security measures. L'Echo, in turn, reported on the same day that a tracing app would be active during the deconfinement, but that its use would be optional.¹⁰⁸ In reply to these reports, over 100 academics signed an open letter to the Belgian government requesting an open debate on the use of such apps and requiring caution.¹⁰⁹

On 21 April, RTBF Auvio shared a video statement in which Minister Philippe De Backer announced that if it is shown that technology can assist in the deconfinement efforts, it will be used in this context, however, only applications that fit certain criteria will be considered and these include respect for private life. For example, the app cannot track the user at all times. The Minister further said that all the requirements for a possible app will be clarified in law before any app is deployed.¹¹⁰ Thus far, the Minister has not specified the criteria that he referred to.

Member of Parliament Freya Saeys urged the Minister to make a choice quickly, claiming that the population may need to be trained and, therefore, to effectively prepare for the deconfinement, it has to be decided whether an app is coming and which one it will be.¹¹¹

On 24 April, Belgium's government announced its de-confinement strategy, affirming that tracing would play a predominant role in it.¹¹² How the actual tracing will happen, however, was not defined. It was only mentioned that a common strategy would be adopted by the Belgian communities with federal support. On 30 April, Belgium's prime minister clarified that tracing activities would be determined by each community.¹¹³ The Walloon Region announced that the common federal approach to tracing would be based on phone calls and, if needed, house visits to those who tested positive for COVID-19 to obtain information about their activities and who they had contact with.¹¹⁴ In practice, the way this contact tracing will take place is as follows: once a person shows symptoms of COVID-19, they are asked to make a list of those persons they had contact with in the previous day by filling in a form;¹¹⁵ this list will be transmitted to their doctor, who will then alert the relevant authorities; the person presenting the symptoms and those in the list will be contacted by phone or, if needed, a house visit, to receive advice on which measures to follow to avoid transmitting the

¹⁰⁷ Belgium, The questions posed by "health tracing" (*Les questions que pose le 'traçage sanitaire'*), Le Soir, 17 April 2020, pp. 2-3.

¹⁰⁸ Belgium, Digital tracing made in Belgium becomes more precise ("[Le traçage numérique made in Belgium se précise](#)"), L'Echo, no date, last accessed 3 May 2020.

¹⁰⁹ Belgium, Open letter to government: 100 academics urge public debate on corona app ([Open brief aan regering: 100 academici vragen dringend publiek debat over corona-app](#)), Knack, 18 April 2020.

¹¹⁰ Belgium, Philippe de Backer on Tracking ([Philippe de Backer sur le tracking](#)), Rtbf auvio, 21 April 2020.

¹¹¹ Belgium, OpenVLD, Freya Saeys MEP: 'Minister Beke must make urgent choices regarding the contact tracing strategy' ([Parlementslid Freya Saeys: "Minister Beke moet dringend keuzes maken inzake de contact tracing-strategie"](#)), 22 April 2020.

¹¹² Belgium, Crisis Centre, Coronavirus: Belgium has set its "exit strategy" ([Coronavirus : la Belgique a fixé sa stratégie de « sortie de crise »](#)), 24 April 2020.

¹¹³ Belgium, 30 April 2020: Answer to questions in plenary on the deconfinement plan ([Questions parlementaires 30 Avril 2020: Réponse aux questions en plénière sur le plan de déconfinement](#)), 30 April 2020.

¹¹⁴ Belgium, [Coronavirus] Implementation of tracing ([\[Coronavirus\] Mise en place du tracing](#)), 29 April 2020 [last accessed 3 May 2020].

¹¹⁵ Belgium, Form available at: https://www.ehealth.fgov.be/file/view/AXHXIkAJdDaxruxu0EUI?filename=Invulblad%20contacten-def_fr.docx

virus.¹¹⁶ Media sources, such as RTBF and La Libre, reported that on Saturday 2 May 2020, the Council of Ministers agreed on the legal framework for the storing of data collected in the context of contact tracing, which is expressed through a royal decree that will be valid for a month.¹¹⁷ On 4 May, the Royal decree was published in the official Belgian Gazette, establishing the creation of a database to be managed by Sciensano (the Belgian institute for health) which will contain the information about suspected and confirmed cases of COVID-19 (e.g. name, gender, contact details, test results, COVID-19 related hospitalisation information), as well as information on people who had contact with those who had the disease.¹¹⁸ A draft bill for after the decree will also be prepared to be discussed by Parliament.¹¹⁹

Despite multiple discussions and media coverage on the topic of tracing, recent developments indicate that Belgium will focus on 'traditional' tracing activities (via phone calls) and not resort to a mobile app. Accordingly, no partnership with telecommunications companies to obtain mobile data for the purposes of tracing have thus far been announced.

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

Thus far, the only new draft legislation announced regarding the processing of personal data in the context of COVID-19 has been the royal decree for the processing of data concerning contact tracing and the draft bill that will be proposed in this context. The texts of such initiatives, however, is not yet available. In the meantime, the Commission for Economy, Consumer Protection and Digital Agenda adopted a resolution on the potential development of a tracing application,¹²⁰ highlighting that, should an application be deployed in Belgium, it would have to respect fundamental rights, including the right to data protection. For example, the resolution mentions that the purpose of the app should be limited to notifying the population of the potential spread of the disease and cannot be used for other purposes such as verifying compliance with confinement measures. It also mentions that data must be retained for a period that is defined beforehand and reinforces other data protection principles as well as points to the fact that, should an app be deployed, it must be done so in a transparent manner and developed under the advice of multidisciplinary experts, including experts in human rights and in cryptography techniques.

¹¹⁶ Belgium, Contact tracking: slowing down the virus together ([Suivi des contacts : ralentir le virus ensemble](#)), no date [last accessed 5 May 2020]

¹¹⁷ Belgium, Coronavirus: agreement on the storage of contact tracing data ([Coronavirus : accord sur le stockage des données issues du contact tracing](#)), Rtbtf, 2 May 2020; Agreement on storage of contact tracing data ([Accord sur le stockage des données issues du contact tracing](#)), La Libre, 2 May 2020.

¹¹⁸ Belgium, Royal Decree of 4 May 2020 No 18 establishing a database at Sciensano in the context of the fight against the spread of the coronavirus COVID-19 ([Arrêté royal du 4 mai 2020 n° 18 portant création d'une banque de données auprès de Sciensano dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)/ [Koninklijk besluit van 4 mei 2020 nr. 18 tot oprichting van een databank bij Sciensano in het kader van de strijd tegen de verspreiding van het coronavirus COVID-19](#)). Published in the Belgian Official Gazette 4 May 2020.

¹¹⁹ Written correspondence with Ministry of Justice, 3 May 2020.

¹²⁰ Belgium, Commission for Economy, Consumer Protection and Digital Agenda (*Commission de l'Économie, de la Protection des consommateurs et de l'Agenda numérique / Commissie voor Economie, Consumentenbescherming en Digitale Agenda*) Proposal of resolution concerning the possible development of an app to combat the coronavirus COVID-19, and the need to respect human rights, and in particular the right to privacy ([Proposition de résolution relative au développement potentiel d'une application mobile pour lutter contre le coronavirus \(COVID-19\) et à la nécessité de respecter les droits humains, en particulier le droit au respect de la vie privé / Voorstel van resolutie betreffende de mogelijke ontwikkeling van een app ter bestrijding van het coronavirus COVID-19, en de noodzaak om de mensenrechten, en in het bijzonder het recht op privacy, te respecteren](#)) [last accessed 19 May 2020].

2.3 Privacy and data protection concerns and possible solutions

On 24 April, Professor Elise Degrave of Namur University pointed some of the risks involved in tracing applications.¹²¹ According to her, the use of such apps incurs in the risk of function creep, possible incompatibility with the European human rights framework, lack of efficiency to contain the spread of COVID-19, among other data protection concerns such as whether users can give valid consent when using these applications.

The Belgium Data Protection Authority has not assessed any specific app, as thus far no application has been deployed in Belgium, but it recently published general guidance on the use of health apps, reinforcing that only the minimum amount of data required to achieve the app's purpose must be processed (principle of minimisation) and that data protection rules, including the GDPR must be respected.¹²² Furthermore, the Authority was asked to provide comments on two draft royal decrees that were being discussed to regulate tracing activities in Belgium. According to the Authority, the drafts had to be amended to include further information on how tracing data would be collected, who would have access to the health data processed in tracing activities and the purposes for which the data could be used. It was also stressed that no processing of the data for purposes outside the context of collection could be undertaken.¹²³

2.4 Any other privacy and data protection concerns

Apart from the multiple concerns expressed about the potential use of a tracing app (see above), no other privacy concerns seem to have been expressed in the media or by academics. Since the beginning of the COVID-19 crisis, the government has been reporting on the number of cases and deaths daily, however, the only information about those concerned that is published is the region they are in and where the death took place (e.g. hospital, nursing home). There is no indication, however, that authorities are processing real time location data. The information provided only discloses the region of residency of the concerned persons.

¹²¹ Belgium, Degrave, E., Digital monitoring of citizens: a pact with the devil? ([Le suivi numérique des citoyens : un pacte avec le diable?](#)) La Libre, 24 April 2020.

¹²² Belgium, Data Protection Authority, COVID-19 and the use of health applications ([Le COVID-19 et l'utilisation d'applications de santé](#)), no date [last accessed 3 May 2020].

¹²³ Belgium, Data Protection Authority, Tracking applications and COVID-19 database: for ODA, the draft Royal Decrees need to be reviewed ([Applications de traçage et base de données COVID-19: pour l'APD, les avant-projets d'arrêtés royaux doivent être revus](#)), 30 April 2020 [last accessed 5 May 2020].