

# Coronavirus pandemic in the EU – Fundamental Rights Implications

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# 1 Measures taken by government/public authorities

## 1.1 Emergency laws/states of emergency

Throughout the month of May there has been gradual easing of the lockdown restrictions. These changes have been proscribed in several amendments to the **Ministerial Order of 23 March 2020 that outlines the emergency measures to limit the spread of coronavirus**.<sup>1</sup> The introduction of these measures is in line with the deconfinement strategy outlined by the National Security Council on 24 April 2020.<sup>2</sup>

- From 4 May 2020, **Phase 1a** of the deconfinement saw the extension of outdoor activities to include, a maximum of two persons and the reintroduction of outdoor sport activities that do not require any contact, such as golf, tennis etc. Obligatory wearing of mouth masks from the age of 12 years old on public transport (see section 1.2.1) and access to hospitals for general and specialist healthcare.
- From 11 May 2020, **Phase 1b** of the deconfinement permitted the re-opening of non-essential businesses (see section 1.2.3).<sup>3</sup>
- From 18 May 2020, **Phase 2** of the deconfinement led to the progressive re-opening of schools (see section 1.2.2), businesses that require contact e.g. hairdressers (see section 1.2.3) and announced measures relating to culture and sport (see section 1.2.1).<sup>4</sup>

On 23 May 2020, it was reported in the media<sup>5</sup> that more than 30 Belgian citizens are seeking to hold the Belgian State and the Minister of the Interior, Pieter de Crem to account for the implementation of lockdown restrictions. The legal basis for the action is premised upon the way in which confinement measures were replicated from the Chinese context without taking account of the European Convention for Human Rights and the need to provide for a concrete public health objective when restricting the rights and freedoms of individuals. The case will be heard by the Brussels Court of First Instance on 24 June 2020.<sup>6</sup>

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<sup>1</sup> Belgium, Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 (*Arrêté ministériel du 23 mars 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / 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 23 March 2020 [last accessed 2 June 2020].

<sup>2</sup> Belgium, Crisis Centre (2020), Coronavirus: Belgium has fixed its strategy to exit the crisis – Press Release of the Prime Minister Sophie Wilmès (*Coronavirus : la Belgique a fixé sa stratégie de « sortie de crise » Communiqué de la Première Ministre Sophie Wilmès*), 24 April 2020 [last accessed 2 June 2020].

<sup>3</sup> Belgium, Ministerial Order of 8 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 (*Arrêté ministériel du 8 mai 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 8 mei 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 8 May 2020 [last accessed 2 June 2020].

<sup>4</sup> Belgium, Ministerial Order of 15 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 (*Arrêté ministériel du 15 mai 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 15 mei 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 15 May 2020. Belgium, Ministerial Order of 20 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 (*Arrêté ministériel du 20 mai 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 20 mei 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 20 May 2020 [last accessed 2 June 2020].

<sup>5</sup> Belgium, Nieuwsblad (2020), Angry citizens, including Jeff Hoeyberghs, demand in court the lifting of corona measures: "Human rights are violated" (*Kwade burgers, waaronder Jeff Hoeyberghs, eisen in rechtbank opheffing van coronamaatregelen: "Mensenrechten worden geschonden"*) 23 May 2020 [last accessed 6 June 2020]; Belgium, Le Soir (2020), Thirty Belgians take the State and Minister De Crem to court over containment measures (*Trente Belges attaquent en justice l'État et le ministre De Crem sur les mesures de confinement*) 23 May 2020 [last accessed 6 June 2020].

<sup>6</sup> Belgium, RTBF (2020), Coronavirus: legal action against "corona" measures to be heard on 24 June in Brussels (*Coronavirus : une action en justice contre les mesures "corona" débattue le 24 juin à Bruxelles*), 3 June 2020 [last accessed 6 June 2020].

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

Since 10 May 2020, it has been possible for limited social contact (Article 5bis), under the following conditions:

- One household (regardless of size) can receive four other persons to create a “social bubble”. These four persons must always be the same, but it is not necessary for them to be part of the same household.
- The members of the “social bubble” may not receive in their homes other persons or be received by other persons.
- The necessary physical distance (1.5 metres) must always be respected. For example, it is preferable to meet outside, if you have a terrace or garden<sup>7</sup>.

From 20 May 2020, these measures were extended to secondary residences which they either own or rent for a period of at least one year.<sup>8</sup>

Since 18 May 2020, it has been possible to engage in outside regular (non-contact) sports training and lessons in groups of maximum 20, whilst maintaining social distance rules (1.5m between each person). These activities must be organised in a context by a club or association and always in the presence of a coach or an adult supervisor.<sup>9</sup>

Since 4 May 2020, the wearing of masks is obligatory on public transport and at bus stops and stations etc.<sup>10</sup> By 22 May 2020, a Federal Police spokesperson reported that 338 fines had been handed out for non-respect of this rule. Additionally, the Securail officers, who are responsible for the safety of people in stations and on trains and are also able to hand out administrative fines for violation of the measures, have subsequently imposed just over 100 administrative fines.<sup>11</sup>

At the beginning of April, Minister of the Interior announced the creation of a Task Force to ensure uniform enforcement of the corona measures,<sup>12</sup> which was closely followed by the announcement of guidelines published by the Local Police Standing Committee.<sup>13</sup>

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<sup>7</sup> Belgium, Ministerial Order of 8 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 8 mai 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 8 mei 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 8 May 2020 [last accessed 2 June 2020].

<sup>8</sup> Belgium, Ministerial Order of 20 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 20 mai 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 20 mei 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 20 May 2020 [last accessed 2 June 2020].

<sup>9</sup> Belgium, Ministerial Order of 15 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 15 mai 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 15 mei 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 15 May 2020 [last accessed 2 June 2020].

<sup>10</sup> Belgium, Crisis Centre (2020), Coronavirus: Belgium has fixed its strategy to exit the crisis – Press Release of the Prime Minister Sophie Wilmès ([Coronavirus : la Belgique a fixé sa stratégie de « sortie de crise » Communiqué de la Première Ministre Sophie Wilmès](#)), 24 April 2020 [last accessed 2 June 2020].

<sup>11</sup> Belgium, RTBF (2020), Coronavirus: already 338 fines for not wearing mouth masks on public transport ([Coronavirus : déjà 338 amendes émises pour non-port de masque buccal dans les transports publics](#)), 22 May 2020 [last accessed 2 June 2020].

<sup>12</sup> Belgium, Office of Minister de Crem (2020), [Minister De Crem sets up a Task Force to ensure uniform enforcement of the corona measures](#), 1 April 2020 [last accessed 2 June 2020].

<sup>13</sup> Belgium, De Tijd (2020), Finally Clear rules for all police officers ([Eindelijk duidelijke regels voor alle politiemensen](#)), 3 April 2020 [last accessed 2 June 2020].

On 11 May 2020, the Minister of the Interior announced that there had been a total of 72,000 fines since mid-March. The general prosecutor of Liège reported that 36,000 fines have been issued (up to and including 7 May 2020). 75% of persons charged received a criminal fine of 250 euros for participating in a gathering and 750 euros for the organisers of social gatherings. The remaining 25% were summoned to appear before the criminal court because separate non-Covid related offences were found.<sup>14</sup>

### 1.2.2 Education

As part of Phase 1B of the deconfinement strategy, the **Belgian** Federal Government announced that as of 18 May 2020, educational establishments shall be permitted to partially reopen. A trial day took place on 15 May 2020 in selected institutions. It is obligatory for staff and all pupils from the age of 12 years are required to cover their mouth and nose with a mask or any other alternative (Article 6).<sup>15</sup> It is possible for schools to invite pupils who require specific monitoring because of educational difficulties or special learning needs. Measures beyond those proscribed by the Ministerial Decree are the responsibility of each Community on the basis of recommendations from experts and the competent authorities.

In **Flanders**, a partial reopening of schools took place on 18 May 2020, with priority given to pupils aged from 11-12 years old (6<sup>th</sup> year – primary), 1<sup>st</sup> year primary (6-7 years old) and primary (7-8 years old) and 17-19 years old (6<sup>th</sup> and 7<sup>th</sup> year – secondary).<sup>16</sup> All measures and guidelines on how to implement the phased return to school has been outlined by the Flemish Department for Education in a Roadmap that outlines five guiding principles: safety, people, learning, organisation and evaluation (*veiligheid, mensen, leren, organiseren en evalueren*).<sup>17</sup> On 22 May 2020, the Flemish Education and Training Department sent positive advice to the National Security Council for an extension of the phased return to school in view of the positive and lack of problems that arose in the first week.<sup>18</sup>

In **Wallonia and Brussels Capital**, schools partially reopened on 18 May 2020 introducing a two phased approach:

- Phase 1 included the attendance of a maximum of 2 days per week per group of pupils aged from 11-12 years old (6<sup>th</sup> year – primary) and 17-19 years old (6<sup>th</sup> and 7<sup>th</sup> year – secondary).
- Phase 2, from the 25 May 2020 -taking into account the organisational impact of the reintroduction of lessons in Phase 1 and following an assessment by federations of organisation powers, trade unions and parents' federations – 1 day a week per group of pupils in 1<sup>st</sup> year primary (6-7 years old) and if possible 2<sup>nd</sup> year primary (7-8 years old), up to a maximum of 2 days per week per group for 2nd year secondary pupils (13-14 years old).

Students who return to school must be provided with the consolidation of the knowledge worked on during the confinement and be offered new learning when present in class and accompanied by teachers. Any new learning material must be limited to basic knowledge and knowledge essential to acquire to best complete the year of study. Work done at home during the days where students are

<sup>14</sup> Belgium, L'Avenir (2020), Coronavirus: 72,000 reports already drawn up for breaches of security measures ([Coronavirus: 72.000 procès-verbaux déjà dressés pour des infractions aux mesures de sécurité](#)), 11 May 2020 [last accessed 2 June 2020].

<sup>15</sup> Belgium, Ministerial Order of 20 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 20 mai 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 20 mei 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 20 May 2020 [last accessed 2 June 2020].

<sup>16</sup> Belgium, Flanders Education and Training (2020), Corona Update: Phased phased restart on 18 May with pilot phase on 15 May ([Update corona: gefaseerde heropstart op 18 mei met pilootfase op 15 mei](#)), 24 April 2020 [last accessed 2 June 2020].

<sup>17</sup> Belgium, Flanders Education and Training (2020), Roadmap: restart of classes at school ([Draaiboek: heropstart van de lessen op school](#)).

<sup>18</sup> Belgium, Flanders Education and Training (2020), Advice Flemish education partners on the exit scenario corona - phase 2 ([Advies Vlaamse onderwijspartners m.b.t. het exitscenario corona – fase 2](#)), 22 May 2020 [last accessed 2 June 2020].

not present at school and accompanied by their teacher must comply with the work provided for above.<sup>19</sup>

Particular attention is to be paid to those students who who have had difficulties before the start of the suspension of lessons and/or with whom no contact has been made or could not be maintained during containment. Teachers and members of the a school's medical-social and psychological team may identify those students who require special education and whose care is essential for the pupil's psycho-pedagogical and social development. In accordance with the school's capacity nad regardless of the students level of education, it is possible for this cohort of students to be invited to go to the school to reconnect with their teacher(s) up to a maximum of 1 day per week from 25 May 2020.<sup>20</sup>

In **Flanders** the concept of contact bubbles for pre-school and primary education has been adopted. Each class group becomes a contact bubble, with no maximum number of pupils with a view to maintaining the same contact bubbles until the end of the school year, for both indoor and activities.

In pre-school education (2,5 years old until approx. 6 years old) setting social distancing rules do not apply, and staff members are strongly recommended to wear mouth masks when in contact with other adults (e.g. colleagues and parents). Hand hygiene must be maintained.<sup>21</sup>

In primary education (6 - 12 years old), social distancing must be applied between pupils and teacher, between teachers and between teachers and parents. There should still be 1.5 m distance between teacher and pupil when teaching. Keeping 1.5 m distance remains important when entering and leaving the school and in other places where group formation can occur (e.g. sanitary blocks). Hand hygiene must be maintained. Staff are required to wear a mouth mask when moving between pupils and in any contact with adults. Plexiglas and face shields can still be used when teaching at the front of the class.<sup>22</sup>

In secondary education (12-19 years old), social distancing must be applied with a maximum fixed group of 14 students in one fixed classroom, with 4 m<sup>2</sup> per pupil and 8 m<sup>2</sup> per teacher. Each pupil must have a fixed seat, and other classrooms or studios are only to be pused for practical or art classes. Hand hygiene must be maintained. Both staff members and pupils are required to wear a mouth mask.<sup>23</sup>

In **Wallonia** and the **Brussels Capital Region**, in addition to the requirement for all staff and pupils over the age of 12 to wear masks, the schools are to be equipped with soap, hydro-alcoholic gel and paper twoels. All students and staff must wash their hands when entering the school, when entering the classroom (after going to the bathroom, after coughing or sneezing, after using the toilet, after using the vending machine and before leaving school.

Groups are to remain the same, with limited movement within the school grounds. In the classroom, teaching should be organized in classes of 10 students maximum, with a minimum of 4 m<sup>2</sup> per student and an additional 8 m<sup>2</sup> per teacher. Chairs and benches should be arranged so that the distance

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<sup>19</sup> Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*) (2020), Circular 7550: Coronavirus Covid-19: Decision of the National Security Council of 25 April 2020 ([Circulaire 7550: Coronavirus Covid-19: décision du Conseil National de sécurité du 25 avril 2020](#)) 25 April 2020 [last accessed 2 June 2020].

<sup>20</sup> Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*) (2020), Circular 7550: Coronavirus Covid-19: Decision of the National Security Council of 25 April 2020 ([Circulaire 7550: Coronavirus Covid-19: décision du Conseil National de sécurité du 25 avril 2020](#)) 25 April 2020 [last accessed 2 June 2020].

<sup>21</sup> Belgium, Flanders Education and Training (2020), Resumption of lessons at school: who, why and how ([Heropstart lessen op school: wie, waarom en hoe](#)) [last accessed 30 May 2020].

<sup>22</sup> Belgium, Flanders Education and Training (2020), Resumption of lessons at school: who, why and how ([Heropstart lessen op school: wie, waarom en hoe](#)) [last accessed 30 May 2020].

<sup>23</sup> Belgium, Flanders Education and Training (2020), Resumption of lessons at school: who, why and how ([Heropstart lessen op school: wie, waarom en hoe](#)) [last accessed 30 May 2020].

between the benches be as large as possible, preferably close to the walls. Classroom seating must be fixed. Superfluous material should be removed as much as possible. Science experiments are not permitted and physical education can be carried out, but adjusted to ensure that physical distance is maintained. The arrival, departure and breaks of the students must be staggered to ensure respect for social distancing rules. No hot meals are to be provided, only cold meals, preferably in the classroom.

Care must be taken to ventilate the premises as much as possible. Outdoor classrooms are recommended. Classrooms must be cleaned (benches, equipment, anything that can be touched to the hand) after each school day and after each use by a group of students different. The sanitary facilities must be checked and possibly cleaned twice a day. Access to sanitary facilities must be limited to the number of washbasins they contain and must be equipped with soap and disposable towels.<sup>24</sup>

### 1.2.3 Work

As of 31 May 2020, the following businesses remain closed: massage parlours, spas (including saunas), fitness centres and casinos.<sup>25</sup> In addition, all restaurants, bars and cafes are closed (except for takeaway services).

Non-essential businesses were permitted to re-open as of 18 May 2020, as long as the following general rules for businesses to ensure social distancing rules are followed, in particular maintaining a distance of 1,5 metres between each person. These companies may only receive customers in the following ways:

- One customer is allowed per 10 m<sup>2</sup> for a maximum period of 30 minutes or as long as it is necessary for appointments;
- If the area accessible to customers is less than 20 m<sup>2</sup>, two customers are allowed, provided that a distance of 1.5 metres is guaranteed between each person ;
- The company provides staff and customers with the necessary hand hygiene products.
- Shopping is carried out alone (an adult may accompany minors living under the same roof or a person in need of assistance) and for a maximum period of 30 minutes, except in the case of appointments.<sup>26</sup>

From 20 May 2020, the following businesses were authorised to re-open: beauty parlours, (non-medical) pedicure salon, hairdressers and barbers, nail salons and tattoo and piercing studios.<sup>27</sup> These businesses are to respect the following additional rules to ensure the safety of their employees and customers: appointment only, customer must be present for the time strictly necessary; in the case of home services, the service provider may only be present in the place where the service is provided for the time strictly necessary; waiting rooms may not be used for customers and, except in emergencies,

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<sup>24</sup> Belgium, Brussels-Wallonia Federation (*Fédération Wallonie-Bruxelles*) (2020). Circular 7550: Coronavirus Covid-19: Decision of the National Security Council of 25 April 2020 ([Circulaire 7550: Coronavirus Covid-19: décision du Conseil National de sécurité du 25 avril 2020](#)) 25 April 2020 [last accessed 2 June 2020].

<sup>25</sup> Belgium, Ministerial Order of 25 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 25 mai 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 25 mei 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 25 May 2020 [last accessed 2 June 2020].

<sup>26</sup> Article 1(2) Ministerial Order of 15 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 15 mai 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 15 mei 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 15 May 2020 [last accessed 2 June 2020].

<sup>27</sup> Belgium, Ministerial Order of 20 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 20 mai 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 20 mei 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 20 May 2020 [last accessed 2 June 2020].



neither may the toilets be used; all persons aged 12 or over shall be required to cover their mouth and nose with a mask or any other alternative fabric as soon as they enter the undertaking or the place where the service is provided, except for the customer for the time strictly necessary for a facial treatment ; work stations must be separated by a distance of at least 1.5 metres; the service provider shall take adequate hygiene measures to disinfect his hands, the instruments handled and his workstation between each customer; it is forbidden to offer food or drinks.<sup>28</sup>

These general rules have been supplemented by two guides for businesses that are re-opening: General guide on the opening of businesses to prevent the spread of the COVID-19 virus published by the Federal Public Service Economy<sup>29</sup> and the General guide to control the spread of COVID-19 at work published by the Federal Public Service Employment, Labour and Social Dialogue.<sup>30</sup> Sector specific guides are also available.<sup>31</sup> On 4 May 2020, the social inspection services published guidelines for implementation of the measures in the workplace.<sup>32</sup>

Since the entry into force of the Law of 27 March 2020, which allows the King to take a number of temporary measures during the pandemic, particularly regarding changes to labour law with a view to the proper organisation of companies and the continuity of critical sectors,<sup>33</sup> a number of significant subsequent Royal Decrees have entered into force:

The first two Royal Decrees impact on **health care professionals working in critical sectors**. The first Royal Decree entered into force on 4 May 2020 and permits, on an exceptional basis and for a limited period of time (until 31 December 2020), the extension of nursing activities to health professionals who are not normally entitled to do so, with a view to assisting doctors and nurses in the care of patients during epidemics or pandemics.<sup>34</sup> The second Royal Decree also entered into force on 4 May 2020 and provides for health care professionals, who are not yet mobilised in the management of the crisis, to be requisitioned to support other professionals.<sup>35</sup> The entry into force of these two legal instruments

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<sup>28</sup> Belgium, Article 3bis, Ministerial Order of 15 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 20 mai 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 20 mei 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 20 May 2020 [last accessed 2 June 2020].

<sup>29</sup> Belgium, Federal Public Service Economy (*Service public fédéral économie/ Federale Overheidsdienst Economie*) (2020), Coronaviurs – Guide for the opening of businesses ([Coronavirus - Guide concernant l'ouverture des commerces](#)), 7 May 2020 [last accessed 2 June 2020].

<sup>30</sup> Belgium, Federal Public Service Employment, Work and Social Dialogue (*Service public fédéral Emploi, Travail et Concertation sociale/ Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg*) (2020), Generic Guide to fight the spread of Covid-19 at work ([Guide générique pour lutter contre la propagation du COVID-19 au travail](#)), 25 April 2020 [last accessed 2 June 2020].

<sup>31</sup> Belgium, Federal Public Service Employment, Work and Social Dialogue (*Service public fédéral Emploi, Travail et Concertation sociale/ Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg*) (2020), Working safely during the corona crisis: generic guide (version 2) and sector guides ([Au travail en toute sécurité pendant la crise du Coronavirus : guide générique \(version 2\) et guides sectoriels / Veilig aan het werk tijdens de coronacrisis: generieke gids \(versie 2\) en sectorgidsen](#)) [last accessed 2 June 2020].

<sup>32</sup> Belgium, Federal Public Service Employment, Work and Social Dialogue (*Service public fédéral Emploi, Travail et Concertation sociale/ Federale Overheidsdienst Werkgelegenheid, Arbeid en Sociaal Overleg*) (2020), Coronavirus: preventive measures and labour law implications ([Coronavirus: mesures de prévention et conséquences sur le plan du droit du travail/ Coronavirus: preventiemaatregelen en arbeidsrechtelijke gevolgen](#)) 4 May 2020 [last accessed 2 June 2020].

<sup>33</sup> 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 [last accessed 2 June 2020].

<sup>34</sup> Belgium, Royal Decree No 9 of 19 April 2020 implementing Article 5, § 1, 2°, of the Act of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II), with a view to temporarily allowing the practice of nursing by unqualified health care professionals ([Arrêté royal n° 9 du 19 avril 2020 portant exécution de l'article 5, § 1, 2°, de la loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 \(II\), en vue de permettre temporairement l'exercice de l'art infirmier par des professionnels de soins de santé non qualifiés](#)) Published in the Belgian official gazette 4 May 2020 [last accessed 2 June 2020].

<sup>35</sup> Belgium, Royal Decree No 9 of 19 April 2020 implementing Article 5, § 1, 2°, of the Act of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II), for the purpose of requisitioning health care professionals ([Arrêté royal n° 16 portant exécution de l'article 5, § 1, 2°, de la loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation](#)

raised concerns amongst those already working in the profession, taking into account the poor timing of the introduction of these measures mid-way through the pandemic rather than at the beginning, and particularly the lack of consideration of the efforts taken by health professionals to continue to provide health care services in such difficult circumstances despite calls for a re-evaluation of the health care sector prior to the pandemic. In response, strike notices were filed in health services, including hospitals, care homes and community health services and there was a call for the new measures to be withdrawn.<sup>36</sup> Symbolic action was taken in public hospitals on 26 May 2020, with demands for health care refinancing and a re-evaluation of the terms and conditions of health care professionals.<sup>37</sup> Following discussions between the health care sector unions and the Secretary of State for Health, Maggie De Block, the two royal decrees were repealed on 29 May 2020<sup>38</sup> and negotiations between the health care sector unions and the federal government began on 2 June 2020 with a view to reaching an agreement on salary increases by 21 July 2020.<sup>39</sup>

Taking into account the challenges with home working and simultaneously providing childcare, a new **corona parental leave** has been introduced. From 1 May 2020 until 30 June 2020, parents who work from home and have a child under the age of 12 (21 for parents with disabled children – see section 1.3.1 below), can request parental leave. Employers are obliged to agree to authorizing corona parental leave, and it cannot impact on existing parental leave. For those who are working full-time they are entitled to request a reduction of 1/5 and work 80% full-time and for those working part-time can continue to work 50% full-time.<sup>40</sup>

Due to the restricted access to the labour market following border closures, a number of changes have come into effect for **seasonal migrant workers** and **asylum seekers** who have made a request for

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*du coronavirus COVID-19 (II), aux fins de réquisition des professionnels de soins de santé*), Published in the Belgian official gazette 4 May 2020 [last accessed 2 June 2020].

<sup>36</sup> Belgium, General Union of Nurses in Belgium (*Algemene unie der verpleegkundigen van België vzw/ Union generale des infirmier(e)s de Belgique asbl*) (2020), Covid-19 crisis management from the point of view of the profession nurse; the torrent that makes the ocean overflow (*La gestion de la crise du Covid-19 du point de vue de la profession infirmière : le torrent qui fait déborder l'océan*), 7 May 2020; Le Spécialiste (2020), Nursing departments are calling for the withdrawal of the Royal Decree on unqualified personnel (*Des départements infirmiers réclament le retrait de l'AR relatif au personnel non qualifié*), 14 May 2020 [last accessed 2 June 2020]; Belgium, RTBF (2020) Coronavirus: after hearing the anger of the healthcare staff, the royal decrees will be suspended and a salary increase will be negotiated.

(Coronavirus: la colère du personnel soignant entendue, les arrêtés royaux seront suspendus et une revalorisation salariale sera négociée), 26 May 2020

<sup>37</sup> Le Spécialiste (2020), CGSP to carry out symbolic actions in public hospitals on Wednesday (*La CGSP mènera des actions symboliques dans les hôpitaux publics mercredi*) 26 May 2020.

<sup>38</sup> Belgium, Royal Decree No 26 withdrawing Royal Decree No 9 of 19 April 2020 implementing Article 5, § 1, 2°, of the Act of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II), with a view to temporarily allowing the practice of nursing by unqualified health care professionals (*Arrêté royal n° 26 retirant l'arrêté royal n° 9 du 19 avril 2020 portant exécution de l'article 5, § 1, 2°, de la loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 (II), en vue de permettre temporairement l'exercice de l'art infirmier par des professionnels de soins de santé non qualifiés/ Koninklijk besluit nr. 26 tot intrekking van het koninklijk besluit nr. 9 van 19 april 2020 tot uitvoering van artikel 5, § 1, 2° van de 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), met het oog op het tijdelijk toestaan van de uitoefening van de verpleegkunde door niet bevoegde gezondheidszorgbeoefenaars*), Published in the Belgian official gazette 29 May 2020 [last accessed 6 June 2020]; Belgium, Royal Decree No 27 of 29 May 2020 withdrawing Royal Decree No 16 of 29 April 2020 implementing Article 5, § 1, 2°, of the Act of 27 March 2020 empowering the King to take measures to combat the spread of the coronavirus COVID-19 (II), for the purpose of requisitioning health care professionals (*Arrêté royal n° 27 du 29 mai 2020 retirant l'arrêté royal n° 16 du 29 avril 2020 portant exécution de l'article 5, § 1, 2°, de la loi du 27 mars 2020 habilitant le Roi à prendre des mesures de lutte contre la propagation du coronavirus COVID-19 (II), aux fins de réquisition des professionnels de soins de santé/ Koninklijk besluit nr. 27 tot intrekking van het koninklijk besluit nr. 16 van 29 april 2020 tot uitvoering van artikel 5, § 1, 2°, van de 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), met het oog op opvoeding van gezondheidszorgbeoefenaars*) Published in the Belgian official gazette 29 May 2020 [last accessed 6 June 2020].

<sup>39</sup> Belgium, Le Spécialiste (2020), Health Care Sectors Begin Negotiations with the Federal Government (*Les secteurs des soins de santé démarrent les négociations avec le gouvernement fédéral*) 2 June 2020.

<sup>40</sup> Belgium, Royal Decree No. 23 of 13 May 2020 in execution 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) concerning corona parental leave (*Arrêté royal n° 23 du 13 mai 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 le congé parental corona*) published in the Belgian Official Gazette 14 May 2020; ONEM (2020), Corona Parental Leave (*'Le congé parental corona'*), 14 May 2020 [last accessed 2 June 2020].



international protection who are already on the Belgian territory, in order to minimize the impact of a shortage of workers on the long-term impact in horticultural and agricultural sectors.

Seasonal workers in the agricultural and horticultural sector who are already present on the territory are entitled to work longer hours. In the cultivation of chicory, mushrooms, and fruit growing, the normal quota of 65 days a year has been increased to 100 days, provided that the worker remains with the same employer. Furthermore, all quotas for 2020 have been doubled: the general period of maximum sixty-five days is temporarily increased to one hundred and thirty days and the above-mentioned maximum period of one hundred days is temporarily increased to two hundred days. The number of additional days is therefore increased from thirty-five to seventy. If the quota of sixty-five or one hundred days - or one hundred and thirty or two hundred days for this year - is reached and the employer wishes to continue to employ the same worker, he will have to offer him a regular employment contract and pay the regular social security contributions. The new rules are retroactively applicable from 1 March 2020 or 1 April 2020 to 31 December 2020.<sup>41</sup>

In normal circumstances, applicants for international protection are entitled to enter the labour market four months after the submission of their application, provided that a decision of the Office of the Commissioner General for Refugees (CGRA) has not intervened. If this 4-month period is reached, they can then continue to work during the remainder of the proceedings, even if an appeal was subsequently lodged against a negative decision of the CGRA.<sup>42</sup> The Royal Decree introduces an exemption to this time limit condition, provided that an application for protection has been registered by 18 March 2020 and an employer guarantees reception of the asylum seeker until 30 June 2020<sup>43</sup>. The opportunistic nature of the latter instrument has been lamented by the Association for the Rights of Foreigners (*Association pour les droits des étrangers*) who raise concerns that the measures are introduced in a time of economic need and crisis rather than as a long-term integration strategy for those seeking international protection, but also those who are undocumented and are already known to be working in the agricultural and horticultural sectors and at risk of abuse or exploitation.<sup>44</sup>

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<sup>41</sup> Belgium, Royal Decree No 5 of 9 April 2020 in execution 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), with a view to adapting certain rules applicable in the agriculture and horticulture sectors ([Arrêté royal n° 5 du 9 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 \(II\), en vue d'adapter certaines règles applicables dans les secteurs de l'agriculture et de l'horticulture/ Koninklijk besluit nr. 5 van 9 april 2020 tot uitvoering van artikel 5, § 1, 5°, van de 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 \(II\), met het oog op de aanpassing van bepaalde regels die van toepassing zijn in de land- en tuinbouwsector](#)) Published in the Belgian Official Gazette 20 April 2020 [last accessed 2 June 2020].

<sup>42</sup> Belgium, Art. 18,3° Royal Decree of 2 September 2018 implementing the Act of 9 May 2018 on the occupation of foreign nationals who are in a special situation of residency or who have been granted a residence permit for a certain period of time ([Arrêté royal du 2 septembre 2018 portant exécution de la loi du 9 mai 2018 relative à l'occupation de ressortissants étrangers se trouvant dans une situation particulière de séjour/ Koninklijk besluit van 2 september 2018 houdende de uitvoering van de wet van 9 mei 2018 betreffende de tewerkstelling van buitenlandse onderdanen die zich in een specifieke verblijfssituatie bevinden](#)) Published in the Belgian Official 17 September 2018 [last accessed 2 June 2020].

<sup>43</sup> Belgium, Royal Decree No. 14 of 27 April 2020 in execution 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) with a view to guaranteeing good organisation 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/ Bijzondere-machtenbesluit nr. 14 van 27 april 2020 tot uitvoering van artikel 5, § 1, 5°, van de 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 \(II\) tot vrijwaring van een vlotte arbeidsorganisatie in de kritieke sectoren](#)). Published in the Belgian Official Gazette 28 April 2020 [last accessed 2 June 2020].

<sup>44</sup> Belgium, Henkinbrant, V. (2020), Health Crisis and Labour Shortages: Opportunistic Relaxation of Access to Work Measures for Applicants for International Protection ([Crise Sanitaire et Pénurie de Main d'œuvre : l'assouplissement Opportuniste des Mesures d'accès au Travail pour les Demandeurs de Protection Internationale](#)) Association for the Rights of Foreigners (*Association pour les droits des étrangers*) Newsletter no. 164, May 2020 [last accessed 2 June 2020].

### 1.2.4 Access to justice

On 16 May 2020, Belgian Courts and Tribunals announced that from 18 May 2020, the courts and tribunals in Belgium would start to progressively return to their normal activities, while implementing sanitary measures, such as the mandatory use of masks in their buildings. To diminish the backlog caused by the confinement measures in place between March and May, it was explained that complementary hearings would be scheduled in July and August.<sup>45</sup>

For asylum seekers, during the international protection meeting of 6 May 2020,<sup>46</sup> the office of the Commissioner General for Refugees and Stateless Persons informed that it would gradually restart conducting interviews with those seeking protection, but that an exact restart date could not be provided. The office of the Commissioner, however, clarified that it has continued to take decisions during the confinement period, mostly related to cases in which interviews had already taken place or cases in which protection could be granted without an interview. The Foreigners Litigation Council announced that as of 19 May 2020 it would progressively resume its hearings, imposing different sanitary measures to contain the spread of COVID-19.<sup>47</sup>

Furthermore, on 29 May, a law of 20 May<sup>48</sup> was published in the Belgian Official Gazette establishing new rules that will apply during the re-opening phase. These include:

- Temporary relaxation of the requirements for the identification of the signatories of authentic instruments exercising judicial office or an office with the Constitutional Court until 30 June;
- Petitions to judges may be submitted electronically until 30 June;
- Liquidation procedures may take place by videoconference until 30 June;
- Decisions can be taken in writing and statutory and regulatory bodies may gather by videoconference;
- Temporary restriction of certain seizures against individuals until 17 June;
- Temporary waiver of the legal obligation to co-sign a judicial decision by the magistrates who issued it until 30 June;
- Temporary jurisdiction of police courts to hear offences against COVID measures-19; and
- Extension of the time-limit to provide supporting documents for those who request free judicial representation for deadlines that expired between 18 March and 30 June when the legal aid office considers that the applicant has not been able to produce the supporting documents within the prescribed period due to the crisis related to COVID-19.

Despite these reopening strategies, many of the measures that were mentioned in Bulletin nr 2. were extended. A Royal Decree introduced on 28 April 2020<sup>49</sup> prolonged the application of the extended limitation periods and other time limits for bringing an action before a civil court implemented by the Royal Decree of 9 April<sup>50</sup> (explained in Bulletin nr. 2) until 17 May 2020. The Decree further prolonged

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<sup>45</sup> Belgium, Courts and Tribunals (*Cours & Tribunaux*) (2020), COVID-19 crisis exit-strategy for courts and tribunals ([Exit-strategie de la crise COVID-19 dans les cours et tribunaux](#)) [last accessed 25 May 2020].

<sup>46</sup> Belgium, Myria (2020), International Protection Report ([Compte-rendu protection internationale](#)) 6 May 2020 [last accessed 2 June 2020].

<sup>47</sup> Belgium, Aliens Litigation Council (*Conseil du Contentieux des Etrangers*) (2020), Measures corona/COVID-19 ([Mesures CORONA/COVID-19](#)) [last accessed 26 May 2020]

<sup>48</sup> Belgium, Act to make miscellaneous provisions respecting justice in the fight against the spread of coronavirus COVID-19 ([Loi portant des dispositions diverses en matière de justice dans le cadre de la lutte contre la propagation du coronavirus COVID-19 / Wet houdende diverse bepalingen inzake justitie in het kader van de strijd tegen de verspreiding van het coronavirus COVID-19](#)) Published in the Belgian Official Gazette 29 May 2020 [last accessed 2 June 2020].

<sup>49</sup> Belgium, Royal Decree extending certain measures taken by Royal Decree n° 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 prolongeant certaines mesures prises par l'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 28 April 2020 [last accessed 2 June 2020].

<sup>50</sup> 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](#)

the possibility of civil sentences to be handed out without oral proceedings until 17 June 2020, in cases where all parties have submitted concluding remarks.

Similarly, a Royal Decree introduced on 13 May 2020<sup>51</sup> prolonged until 17 June 2020 the application of the Royal Decree of 9 April 2020<sup>52</sup> on criminal procedure and execution of sentences, which, as explained in Bulletin nr. 2, determined that for the duration of the crisis measures, only the presence of the counsel of the convicted person or detained person (and not the convicted person or detained person themselves). On 26 May 2020, the Court of Cassation ruled on a case that concerned the implementation of these measures under Article 17 of the Royal Decree of 9 April 2020. The Court ruling concerns a detained person, appealing a decision on his release and the granting of permission to leave before the Criminal Enforcement Court. The detainees lawyer did not participate in the hearing as the link to the video conference was sent to wrong email address. The Criminal Enforcement Court issued a ruling without the lawyer's presence and noted it was satisfied with 'written representation'. The detainee's lawyer had not agreed to written representation at any time, however. The Court of Cassation therefore decided to annul the court's ruling.<sup>53</sup>

Also the measures imposed by the Royal Decree of 20 April 2020<sup>54</sup> (mentioned in Bulletin nr. 2) were extended by a Royal Decree of 18 May 2020.<sup>55</sup> While the April Decree determined that 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, are automatically extended by 30 days, the new Decree expanded the end date from 3 May to 30 June.

On the same token, on 6 May 2020, a Royal Decree<sup>56</sup> was introduced determining that most time limits applicable to the initiation and processing of procedures before the Aliens Litigation Council, which expired during the period from 9 April 2020 to 3 May 2020 (inclusive), are automatically extended by thirty days. On 26 May 2020, a new decree<sup>57</sup> prolonged this period until 30 June 2020.

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*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 [last accessed 2 June 2020].

<sup>51</sup> Belgium, Royal Decree prolonging the measures of 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° 3 portant des dispositions diverses relatives à la procédure pénale et à l'exécution des peines et des mesures prévues dans le cadre de la lutte contre la propagation du coronavirus COVID-19*). Published in the Belgian Official Gazette 13 May 2020 [last accessed 2 June 2020].

<sup>52</sup> 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° 3 portant des dispositions diverses relatives à la procédure pénale et à l'exécution des peines et des mesures prévues dans le cadre de la lutte contre la propagation du coronavirus COVID-19*) Published in the Belgian Official Gazette 13 May 2020 [last accessed 2 June 2020].

<sup>53</sup> Belgium, Court of Cassation (*Cour de Cassatie/Hof van Cassatie*) Case nr N-20200526-7 (P.20.0487.N) 26 May 2020.

<sup>54</sup> 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 [last accessed 2 June 2020].

<sup>55</sup> Belgium, Royal Decree extending certain measures taken by the 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 prorogeant certaines mesures prises par l'arrêté royal n° 12 du 21 avril 2020 concernant la prorogation des délais de procédure devant le Conseil d'Etat et la procédure écrite*) Published in the Belgian Official Gazette 22 April 2020 [last accessed 2 June 2020].

<sup>56</sup> Belgium, Royal Decree of Special Powers n° 19 concerning the extension of the time limits for proceedings before the Aliens Litigation Council and the written procedure (*Arrêté royal de pouvoirs spéciaux n° 19 concernant la prorogation des délais de procédure devant le Conseil du contentieux des étrangers et la procédure écrite*) Published in the Belgian Official Gazette 6 May 2020 [last accessed 2 June 2020].

<sup>57</sup> Belgium, Royal Decree prolonging the measures of Royal Decree of Special Powers n° 19 concerning the extension of the time limits for proceedings before the Aliens Litigation Council and the written procedure (*Arrêté royal prorogeant certaines mesures prises par l'arrêté royal n° 19 du 5 mai 2020 concernant la prorogation des délais de procédure devant le Conseil du contentieux des étrangers et la procédure écrite*) Published in the Belgian Official Gazette 27 May 2020 [last accessed 2 June 2020].

### 1.2.5 Freedom of movement

The rules regarding inward and outward travel to and from Belgium are largely the same as in the Bulletin nr. 2 and will remain in place until at least 8 June 2020. This means that, as previously reported, 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: i) the person remains confined to the house for 14 days; and ii) the person is prohibited from working outside the home for 14 days (even if they are employed in the country).<sup>58</sup>

All non-essential travel from and to Belgium remains forbidden at least until June 8. From May 30, however, Belgian residents are allowed to visit close family members and do their essential shopping in neighbouring countries.<sup>59</sup> Possible changes in the current restrictions will be discussed by the government on 3 June 2020. At the moment, cross border commuters who work in vital sectors and crucial professions as well as seasonal workers who work in the agricultural sector are also allowed to cross the border between Belgium and its neighbouring countries. In view of the re-opening of schools on 18 May 2020, cross border commuter students are also allowed to enter Belgium to attend class. The situation for other commuters from neighbouring countries has not changed since Bulletin nr. 2.

As mentioned above in section 1.2.1, since 20 May 2020, Belgian residents are now allowed to travel to their second residence.

As travel all non-essential travel to Belgium is still suspended, it is currently impossible for foreigners to request a visa through a Belgian embassy or consulate, which according to the Immigration Office may have undesired consequences for family reunification (e.g. if the family member has to wait for the crisis to pass and, due to the delay, no longer fits a possible age requirement).<sup>60</sup> These circumstances will be taken into account once the situation is normalised.

## 1.3 Impact of measures on particular groups

### 1.3.1 Persons with disabilities

#### Social distancing in the community

In Belgium, VeBes, an association for persons with visual impairments, published an open letter to the Flemish transport company 'De Lijn', asking to help persons with visual impairments to safely use public transportation. Social Distancing measures are particularly difficult for them to adhere to and other measures, such as not being able to board through the front door, constitute an obstacle.<sup>61</sup> Several media also reported that blind and visually impaired persons are finding it difficult to adhere to social distancing rules as information signs and posters in supermarkets and public spaces are not accessible for them.<sup>62</sup>

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<sup>58</sup> Belgium, Info Coronavirus (2020), Frequently asked questions - International (*Foire aux questions*) [last accessed 25 May 2020].

<sup>59</sup> Belgium, Crisis centre (2020), Crossing border issues ([Questions relatives au franchissement de nos frontières](#)) [last accessed 2 June 2020].

<sup>60</sup> Belgium, Immigration Office (2020), Family reunification ([Le regroupement familial](#)) [last accessed 26 May 2020].

<sup>61</sup> Belgium, VeBes (2020), 'Open letter to De Lijn: "Help a blind or partially sighted person during corona also safely find the right Line" ([Open brief aan De Lijn: "Help een blinde of slechtiende tijdens corona ook veilig de juiste Lijn te vinden"](#))', DeWereldMorgen.be, 12 May 2020 [last accessed 2 June 2020].

<sup>62</sup> Belgium, RTBF (2020), 'Coronavirus in Belgium: the blind and visually impaired are calling on shops to take them into account' (["Coronavirus en Belgique: les aveugles et malvoyants appellent les magasins à les prendre en compte"](#)), RTBF, 6 May 2020; Het Laatste Nieuws, 'Blind or partially sighted in corona times: "Keeping a distance is often difficult' (["Blind of slechtiend in coronatijden: "Afstand bewaren is vaak moeilijk"](#))', Het Laatste Nieuws, 7 May 2020; Van Remoortere, R. (2020), 'Following distance rules for the blind and visually impaired is not so self-evident: "You can always talk to us and help' (["Afstandsregels volgen voor blinden en slechtienden niet zo vanzelfsprekend: "Je mag ons altijd aanspreken en helpen"](#))', Gazet Van Antwerpen, 17 May 2020 [last accessed 2 June 2020].

### **Social distancing in residential institutions for persons with disabilities**

The **Flemish government** decided to allow visits for residents of institutions for persons with disabilities under strict conditions as of 4 May, in addition to 'essential visits' (see Bulletin nr. 2). 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 visits initially remained limited to closest relatives or trustees, with a maximum of one visitor at a time. The director of the institution makes the final decision whether or not to start with a visiting scheme and how. Visitations can therefore differ from one care provider to another, and even from one group of residents to the other. Finally, it has to be ascertained for each individual resident whether a visit can be organised in a safe manner, and whether that visit also represents added value for the resident concerned.<sup>63</sup> The Flemish Government subsequently decided that as of 14 May, residents of institutions for persons with disabilities can receive visits from more than one person at a time, if those persons belong to the same 'contact bubble'.<sup>64</sup> Since 18 May 2020, social distancing measures in residential care institutions for minors, are gradually loosened as well.<sup>65</sup> And restrictions to transfers between residential institutions and families are gradually loosened for both minors<sup>66</sup> and for adults as of 25 May 2020.<sup>67</sup>

Data from the Flemish Agency of Persons with Disabilities (VAPH) show that 14.000 persons opted to stay in the institution full time, without any possibility to go home or to receive visits. 21.000 persons with a disability opted to stay home full time.<sup>68</sup> VAPH spokesperson Karina De Beule reported in the media that especially adults chose to stay in the institutions: 92% compared to 45% of minors. The spokesperson noted that as of 25 May 2020 social distancing measures will gradually be relaxed. For instance, someone who stayed in a residential institution full time will be allowed to return home occasionally on the weekend, but not every weekend.<sup>69</sup>

A group counsellor at a centre for children with disabilities also reported in the media that since 18 March the children in the centre have barely seen their parents. The counsellor stated that the visits allowed in Flemish institutions as of 4 May were devastating in practice, with only one visitor allowed for one hour, and keeping 1.5 meters distance at all times. As regards the ability for children to return to their families as of 25 May 2020, the counsellor warns that policy makers do not sufficiently take into account that putting these measures into practice takes time, thereby giving everyone involved false hope.<sup>70</sup>

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<sup>63</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), Infonota 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 [last accessed 2 June 2020].

<sup>64</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), 'Guidelines on visiting arrangements for persons with disabilities staying with licensed care providers or in multifunctional centres' ('[Richtlijnen bezoekerregeling voor personen met een handicap die verblijven bij vergunde zorgaanbieders of in multifunctionele centra](#)'), 14 May 2020 [last accessed 2 June 2020].

<sup>65</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), 'Gradual phasing out of measures to combat COVID-19: multifunctional centres for children and young people with disabilities' ('[Geleidelijke afbouw van de maatregelen ter bestrijding van COVID-19: multifunctionele centra voor kinderen en jongeren met een handicap](#)'), 12 May 2020 [last accessed 2 June 2020].

<sup>66</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), 'Restart of multifunctional centres for children and young people with disabilities' ('[Doorstart van de multifunctionele centra voor kinderen en jongeren met een handicap](#)'), 18 mei 2020 [last accessed 2 June 2020].

<sup>67</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), 'Relaxing the transition between the home situation and the collective residential facility for adults' ('[Versoepeling van de overstap tussen de thuissituatie en de collectieve residentiële voorziening voor volwassenen](#)'), 18 May 2020 [last accessed 2 June 2020].

<sup>68</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), 'Corona crisis: figures relating to VAPH healthcare providers' ('[Coronacrisis: cijfers met betrekking tot VAPH-zorgaanbieders](#)'), 26 May 2020 [last accessed 2 June 2020].

<sup>69</sup> Belgium, Het Belang van Limburg (2020), '21,000 Flemings with disabilities may return to health care institutions' ('[21.000 Vlamingen met beperking mogen terug naar zorginstelling](#)'), Het Belang Van Limburg, 25 May 2020 [last accessed 2 June 2020].

<sup>70</sup> Belgium, Vander Stuyft, C. (2020), 'Kids who can't go home for ten weeks. That's not true.' ('[Kinderen die tien weken niet naar huis kunnen. Dat klopt niet](#)'), Sociaal.net, 20 May 2020 [last accessed 2 June 2020].



In **Wallonia**, visits to residents of institutions for persons with disabilities – other than ‘essential visits’ (see Bulletin nr. 2) – are allowed again as of 8 May 2020. The Walloon Agency for Persons with Disabilities (AVIQ) issued guidelines, noting that it is up to the management of each centre, depending on the health situation in its establishment and the material and human resources available, to organize visits by relatives in accordance with applicable health measures and taking into account the family situations, profiles and specific needs of persons with disabilities.<sup>71</sup> On 26 May 2020, measures were also published for progressive deconfinement of residential institutions for persons with disabilities, with respect for social distancing and health and safety regulations. The new measures allow persons with disabilities in institutions to return to their families and vice versa, as well as new admissions to residential institutions. As regards persons returning to their families, it is recommended that this does not take place for a weekend, but for a minimum period of 7 days.<sup>72</sup>

Prior to the deconfinement measures, several DPOs issued a joint press release, asking for clear deadlines for loosening social distancing restrictions for residents of institutions for persons with disabilities. They noted that prolonged social distance can have very serious effects on the mental health of residents, including emergency care or hospitalization. They also stressed that many residents usually return to their families on weekends and during holidays, which is no longer possible. Only allowing visits for persons with disabilities and not allowing them to return home is therefore considered insufficient.<sup>73</sup> In response to the recommendation of only allowing persons with disabilities to return to their families for a minimum of 7 days, the DPO Inclusion also stressed that flexibility is required. Returning home for a longer period of time could lead to loss of orientation for persons with disabilities who are used to weekend returns, impossibility for some carers to take care of their relative with a disability, obligation of regular care that may not be provided in an optimal way etc.<sup>74</sup> During the confinement period, media also reported the difficulties families of persons with disabilities face when not seeing relatives for such a long time.<sup>75</sup>

In the **Brussels Capital Region**, new admissions and returns to residential institutions for persons with disabilities may be authorised by the management of the institutions as of 18 May. This concerns both adults and minors with disabilities. Prior to any decision on return of persons with disabilities, management must ensure the implementation of all essential health measures enabling the institution to guarantee the health security of both staff and beneficiaries. In addition, both adults and minors who resided in care centres during the COVID-19 outbreak, are allowed to return to their families again. For children, return to their families is allowed subject to the agreement of the management of the centre. For adults, the management of the residential institution will give priority to visits to the centres according to the conditions set out in the circular of 21 April 2020 (returns to the centre after staying with the family are only allowed in exceptional circumstances).<sup>76</sup> And if the

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<sup>71</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights (2020), 'COVID-19 (coronavirus) - Guidelines for supervised visits to AVIQ-approved accommodations for persons with disabilities' ('COVID-19 (coronavirus) – Consignes relatives aux visites encadrées dans les établissements d'hébergement pour personnes en situation de handicap agréés par l'AVIQ'), 8 May 2020 [last accessed 2 June 2020].

<sup>72</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights (2020), 'Measures related to deconfinement in Adult Residential Services, Adult Overnight Residential Services, Youth Residential Services, Residential Services Organizing Activities for Persons with Disabilities and Non-Accredited Accommodation Services' ('Mesures liées au déconfinement dans les Services résidentiels pour adultes, les Services résidentiels de nuit pour adultes, les Services résidentiels pour jeunes, les Services résidentiels organisant des activités pour personnes handicapées et les services d'hébergement non agréés'), 26 May 2020 [last accessed 2 June 2020].

<sup>73</sup> Belgium, Inclusion et al. (2020), 'Press release: When will people with disabilities be able to leave (or return to) institutions?' ('Communiqué de presse: Quand les personnes en situation de handicap pourront-elles sortir des institutions (ou y revenir)?'), 6 May 2020.

<sup>74</sup> Belgium, Inclusion (2020), 'Covid-19: how to return to an institution/home' ('Covid-19: les modalités des retours en institution / à la maison'), 26 May 2020 [last accessed 2 June 2020].

<sup>75</sup> Belgium, Lequi, O. (2020), 'Sugny: three months without seeing their disabled son' ('Sugny : trois mois sans voir leur fils handicapé'), L'Avenir, 28 May 2020 [last accessed 2 June 2020].

<sup>76</sup> Belgium, Service Public Francophone Bruxellois (2020), COVID-19 (coronavirus) - Guidelines for day and residential centres for people with disabilities ('COVID-19 (coronavirus) – Consignes aux centres de jour et d'hébergement accueillant des personnes handicapées'), 21 April 2020 [last accessed 2 June 2020].

well-being of the resident requires it, it will analyse, in consultation with the family, less regular but longer possibilities of return to the family in order to avoid too frequent testing and confinement.<sup>77</sup>

### **Access to support services and day care**

In **Flanders**, collective day care and a range of outpatient services for persons with disabilities were able to gradually restart on 18 May 2020, including: day care; supported employment; care activities for interned persons in prison; psychosocial outpatient and mobile counselling; etc. Strict rules of social distancing continue to be adhered to.<sup>78</sup>

In **Wallonia**, as of 18 May 2020, several support services for persons with disabilities progressively restarted activities, such as day care, supported housing, respite care, sign language interpretation and daily activities' assistance.<sup>79</sup>

In the **Brussels Capital Region**, new admissions and returns to day care centres may be authorised by the management of the centre as of 18 May 2020 for both adults and minors. The same conditions apply as for return to residential institutions (see above).<sup>80</sup>

### **Families of children with disabilities**

In **Belgium**, coronavirus parental leave is provided for parents of dependent disabled children who cannot be accommodated in the currently closed centres. The age limit is set at 21, but there is no age limit if a child or adult with a disability is cared for by his parents where he or she would normally residential care or treatment organised or recognised by the Communities.<sup>81</sup>

The DPO Stan vzw published the results of a survey on the impact of COVID-19 measures on families of persons with disabilities.<sup>82</sup> A total of 3.592 parents and grandparents in Flanders and Brussels completed the survey. 288 indicated that they had 1 or more children with a disability. The survey showed that before the crisis more than 50% of the children normally stay at home, 11% stay in a residential facility and 30% live independently. 77% use ambulatory support, mobile support or day care. Since the Covid-19 outbreak, when the son or daughter is staying full-time in a facility, most have contact by phone or Skype. Contact with grandparents is largely via telephone and social media. 65% of them find social media a real added value. Of the parents who take care of their child at home, 67% indicate that they do not have any help to share the care, e.g. from home counselling or volunteers.

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<sup>77</sup> Belgium, Service Public Francophone Bruxellois (2020), COVID-19 (coronavirus) - Guidelines for day and residential centres for people with disabilities ([COVID-19 \(coronavirus\) – Consignes aux centres d'hébergement accueillant des personnes handicapées](#)), 18 May 2020 [last accessed 2 June 2020].

<sup>78</sup> Belgium, Flemish Agency for Persons with Disabilities (2020), Infonota: Resumption of outpatient/mobile counselling and collective day support in the sector of persons with disabilities ([Infonota: Doorstart van ambulante/mobiele begeleiding en collectieve dagondersteuning in de sector personen met een handicap](#)), 8 May 2020; Belgium, Flemish Agency for Persons with Disabilities (2020), Gradual phasing out of measures to combat COVID-19: multifunctional centres for children and adolescents with a handicap (["Geleidelijke afbouw van de maatregelen ter bestrijding van COVID-19: multifunctionele centra voor kinderen en jongeren met een handicap"](#)), 12 May 2020 [last accessed 2 June 2020].

<sup>79</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights (2020), Measures related to deconfinement ([Mesures liées au déconfinement](#)), 15 May 2020 [last accessed 2 June 2020].

<sup>80</sup> Belgium, Service Public Francophone Bruxellois, (2020) COVID-19 (coronavirus) - Guidelines for day and residential centres for people with disabilities ([COVID-19 \(coronavirus\) – Consignes aux centres de jour et d'hébergement accueillant des personnes handicapées](#)), 21 April 2020; Service Public Francophone Bruxellois (2020), COVID-19 (coronavirus) - Guidelines for day and residential centres for people with disabilities ([COVID-19 \(coronavirus\) – Consignes aux centres d'hébergement accueillant des personnes handicapées](#)), 18 May 2020 [last accessed 2 June 2020].

<sup>81</sup> Belgium, Royal Decree No. 23 of 13 May 2020 in execution 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) concerning corona parental leave ([Arrêté royal n° 23 du 13 mai 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 le congé parental corona](#)) published in the Belgium Official Gazette 14 May 2020; ONEM (2020), Corona Parental Leave (["Le congé parental corona \(update 14/05\)"](#)), 14 May 2020 [last accessed 2 June 2020].

<sup>82</sup> Belgium, The survey itself was launched by Gezinsbond, but Stan vzw assisted with results regarding families of persons with disabilities. For the general survey, see Valgaeren, E. (2020), Results of the second corona survey on families (["Resultaten tweede corona-enquête over gezinnen"](#)), Gezinsbond, 11 May 2020 [last accessed 2 June 2020].

Those who do receive help, receive it from home counselling, assistant counsellors, Family Aid, volunteers, from the facility, via school or via a helpline that can be called. The predominant emotions among respondents since the outbreak of the virus are anxiety (71%), followed by love (50%) and fear (42%). 39% say that the combination of work and family is difficult. The influence of the crisis is mainly felt in the area of work/care/school combination.<sup>83</sup>

Media continue to report that parents of children with disabilities face particular obstacles and psychological burden during the quarantine. Parents are faced with an impossible choice between leaving their children in an institution or taking care of them at home full time, without the necessary support and infrastructure.<sup>84</sup> In addition, for many children a return to their care centres is not possible yet because of the strict health and security measures in place. Member of Parliament Maurits Vande Reyde therefore states in the media that additional support must be made available for families of those children.<sup>85</sup>

### **Protective equipment and mouthmasks**

In **Belgium**, media reported that an adapted work company launched production of fabric masks equipped with a transparent window to allow persons with a hearing impairment to lip-read. Phare, the Brussels Agency for persons with disabilities, ordered a total of 10,000 masks for Brussels institutions and support services for persons with disabilities.<sup>86</sup> On 19 May 2020, a medical journal also reported that a manufacturer from Bruges and a supplier from Haacht launched the first machine-made mouth masks with a transparent window on the Belgian market.<sup>87</sup>

The president of a municipality council in **Flanders** pleaded for reimbursement of protective gear for persons with disabilities. The local politician, a person with a disability herself, stated that she spends around 250 euros per month on protective gear for her care givers. She also recommended the Flemish Agency for persons with disabilities (VAPH) to organise a group purchase.<sup>88</sup>

### **Education**

In **Belgium**, Unia, the Interfederal Agency for Equal Opportunities, Steunpunt voor Inclusie and the Department of Orthopedagogics of Ghent University published guidelines on how to better take into account children with special needs in the COVID-19 education policy. The organisations expressed concern that the support offered to students is very diverse, with some schools that are doing very well to others where support is lacking altogether. The organisations received reports that priority is given to providing support in special education at the expense of students with disabilities in the general education system.<sup>89</sup> The DPO GRIP vzw expressed its concern regarding the education guidelines issued by the Flemish Government<sup>90</sup> and their impact on students with disabilities.<sup>91</sup> The

<sup>83</sup> Belgium, Stan vzw (2020), How do families deal with the coronavirus? (*'Hoe gaan gezinnen om met het coronavirus?'*), 15 May 2020 [last accessed 2 June 2020].

<sup>84</sup> Belgium, Hovine, A. (2020), The parents of handicapped children, forgotten in their confinement, crack... (*'Les parents d'enfants handicapés, oubliés dans leur confinement, craquent...'*), La Libre Belgique, 28 May 2020 [last accessed 2 June 2020].

<sup>85</sup> Belgium, Knack (2020), Open Vld calls for extra measures for children with disabilities (*'Open Vld vraagt extra maatregelen voor kinderen met beperking'*), Knack, 25 May 2020 [last accessed 2 June 2020].

<sup>86</sup> Belgium, La Libre (2020), One company produces 10,000 masks suitable for the deaf and hard of hearing (*'Une entreprise produit 10.000 masques adaptés aux sourds et malentendants'*), La Libre, 15 May 2020 [last accessed 2 June 2020].

<sup>87</sup> Belgium, Medi-sfeer (2020), First mechanical production of mouth masks with window (*'Eerste machinale productie van mondmaskers met venster'*), Medi-Sfeer, 19 May 2020 [last accessed 2 June 2020].

<sup>88</sup> Belgium, Smits, H. (2020), 'Leuven municipal council president pleads for reimbursement of protective materials for people in need of care: "I spend 250 euros per month on this"' (*'Leuvense gemeenteraadsvoorzitster pleit voor terugbetaling beschermingsmateriaal voor mensen met zorgnood: "Ik spendeer hier 250 euro per maand aan"'*), Het Nieuwsblad, 19 May 2020 [last accessed 2 June 2020].

<sup>89</sup> Belgium, Unia (2020), Support for pupils with special educational needs in the COVID-19 policy (*'Ondersteuning voor leerlingen met specifieke onderwijsbehoeften in het COVID-19-beleid'*), 6 May 2020 [last accessed 2 June 2020].

<sup>90</sup> Belgium, Flanders Education and Training (2020), Coronavirus: guidelines for schools and CLBs (*'Coronavirus: richtlijnen voor scholen en CLB's'*), 18 May 2020 [last accessed 2 June 2020].

<sup>91</sup> Belgium, Somers, S. (2020), GRIP education network worried about the relaunch of schools (*'Netwerk onderwijs van GRIP maakt zich zorgen over de heropstart van de scholen'*), Grip vzw, 12 May 2020 [last accessed 2 June 2020].

DPO Inclusion also issued a press release, stressing that the gap in the follow-up of students with disabilities is enormous for young children in full development and who often requiring intensive and close support. It also raised concern about parents having to take on the financial burden for support services outside of special education, such as speech therapy, and a very weak or non-existent pedagogical follow-up of students by schools (special and ordinary) during the crisis.<sup>92</sup>

### **Public transportation**

The **Belgian** National Railway Service resumed assistance for persons with disabilities and persons with limited mobility on 4 May 2020, albeit under strict conditions<sup>93</sup> (see Bulletin nr. 2 for more information).

### **Financial support**

In light of the Covid-19 crisis, the **Belgian Federal Government** adopted the Federal Plan for Social and Economic Protection: a series of measures to support persons and companies facing socio-economic difficulties. On 29 May 2020, the Government decided on modalities of the third phase of the plan, which aims to continue and strengthen measures to support spending power, activity levels and employment in the coming months. One of the four pillars proposed for the third phase is to grant a one-off premium of 250 euros to living wage earners, people with disabilities and people entitled to an income guarantee for the elderly.<sup>94</sup>

In response, the National High Council for Persons with Disabilities (*Conseil Supérieur National des Personnes Handicapées*) issued a press release criticising the one-off premium. It stresses that the cost of living has risen sharply for persons with disabilities for over two months now due to food and medication prices, reduced public transport and the halt of volunteer services. The inaccessible environment (transport, specific care) generates additional costs for persons with disabilities. The High Council stresses that the income replacement allowance is 20% below the poverty line: a single person with a disability currently has to make do with 959 euros per month, forcing them to cut back on food and care. The High Council notes that the Government could at least have issued the premium for three months and calls for immediate and effective support for people with disabilities.<sup>95</sup>

## **1.3.2 Homeless people**

To ensure that homeless people could comply with social distancing measures, the media reported<sup>96</sup> that hotels made rooms available to house them during the pandemic. Furthermore, Samu Social also created multiple centres to house the homeless, including a centre for women in one of the European Parliament buildings,<sup>97</sup> as well as an isolation centre<sup>98</sup> for those who tested positive for COVID-19 coming from the emergency centre managed by Doctors Without Borders. On 11 May 2020, Doctors

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<sup>92</sup> Belgium, Inclusion (2020), Teaching: for pupils with special needs, stopping classes also means stopping the therapeutic and/or paramedical follow-up ([‘Enseignement: pour les élèves à besoins spécifiques, l’arrêt des cours signifie aussi l’arrêt du suivi thérapeutique et/ou paramédical’](#)), 8 May 2020 [last accessed 2 June 2020].

<sup>93</sup> Belgium, National Railway Service (NMBS) (2020), Travellers with reduced mobility ([‘Reizigers met beperkte mobiliteit’](#)) [last accessed 31 May 2020].

<sup>94</sup> Belgium, Sophie Wilmes, Prime Minister of Belgium, in charge of Beliris and Federal Cultural Institutions (2020), [‘The third part of the Federal Plan for Social and Economic Protection is being prepared’](#), 29 May 2020 [last accessed 2 June 2020].

<sup>95</sup> Belgium, Conseil Supérieur National des Personnes Handicapées (2020), Are people with disabilities being made fun of? When are the real social priorities? ([‘Se moque-t-on des personnes handicapées? A quand les vraies priorités sociales?’](#)), 30 May 2020 [last accessed 2 June 2020].

<sup>96</sup> Belgium, RTBF (2020), Coronavirus in Brussels: homeless people housed in hotels, "I hadn't slept in a bed for 4 years" ([‘Coronavirus à Bruxelles : des sans-abri logés dans des hôtels, “je n’avais plus dormi dans un lit depuis 4 ans”](#)’), 17 May 2020 [last accessed 29 May 2020].

<sup>97</sup> Belgium, Samusocial (2020), Women's lives at the Square de Meeûs accommodation center ([‘La vie des femmes au centre d’hébergement du Square de Meeûs’](#)) 21 May 2020 [last accessed 29 May 2020].

<sup>98</sup> Belgium, Samusocial (2020), Covid19 emergency: Samusocial opens 70 places in a centre in a hotel in Schaerbeek ([‘Urgence Covid19 : Le Samusocial ouvre un centre de 70 places dans un hôtel à Schaerbeek’](#)) 6 May 2020 [last accessed 29 May 2020].

Without Borders mentioned<sup>99</sup> that until then it had treated 96 persons in its centre in Tours & Taxis in Brussels. By 26 May 2020, the media reported<sup>100</sup> that with the decrease in cases, only 8 persons remained under treatment in the centre. On 29 May 2020, the media also reported<sup>101</sup> that, considering the difficulties in maintaining sanitary measures in the Samu Social centres to house the homeless due to the limited space of the centres, the NGO Doctors of the World started testing residents for COVID-19.

### 1.3.3 Detainees

Based on the recommendations of the national security council, a plan to soften sanitary measures in prisons has been put in place.<sup>102</sup> In this context, as of 25 May 2020, prisoners are again allowed to receive visitors, as long as sanitary rules are followed (e.g. mandatory use of face masks, prohibition of physical contact, only one visitor per detainee etc.). Furthermore, online visits have been put in place to complement physical ones.

Some prisons, however, do not seem to be equipped to conduct visits according to the safety guidelines. For example, the media<sup>103</sup> reported that prisons in Liège would not be able to start visits on the 25 May 2020 due to lack of safety equipment. In view of the lack of sanitary conditions for visits in some prisons, the media<sup>104</sup> also reported that a strike notice was given and prison personnel may start striking on 2 June 2020, should the prison conditions not be appropriate to receive visitors. After negotiations with prison authorities and the ministry of justice, however, the media reported<sup>105</sup> that the syndicate indicated that most of their reivindications for the security of prison workers were accepted and, therefore, it was satisfied with the measures taken. The International Prison Observatory,<sup>106</sup> however, claimed that the resumption of visits in the presented format was insufficient and that, accompanied by strict hygiene measures, visits should be granted more widely both in terms of number of visits and number of visitors.

Regarding migrants in detention, multiple detainees have been released from immigration detention as returns and expulsions were mostly halted. In this regard, Myria informed that between 13 and 18 March 2020 206 persons were released, 289 between 18 and 31 March 54 between 1 and 21 April 2020.<sup>107</sup>

### 1.3.4 Victims of domestic violence

The reported increase in cases of domestic violence during the confinement period,<sup>108</sup> when women are ceaselessly monitored and cannot request help, was noted by the Belgian Francophone Women

<sup>99</sup> Belgium, Doctors Without Borders (2020), Our interventions to combat covid-19 in Belgium: update of May 11) (*Nos interventions de lutte contre le covid-19 en Belgique : mise à jour du 11 mai*) 11 May 2020 [last accessed 29 May 2020]

<sup>100</sup> Belgium, BX1 (2020), Only eight homeless and migrants still at the MSF Covid centre on the Tour & Taxis site in Brussels (*Seuls huit sans-abri et migrants encore au centre Covid de MSF sur le site de Tour & Taxis à Bruxelles*) 26 May 2020 [last accessed 29 May 2020]

<sup>101</sup> Belgium, RTBF (2020), Coronavirus: how do tests and tracing work for people who do not have a home? (*Coronavirus : comment se passent les tests et le tracing chez les personnes en rupture de logement ?*) 29 May 2020 [last accessed 29 May 2020]

<sup>102</sup> Belgium, Federal Public Service Justice (2020), Adapted service due to coronavirus (COVID-19) (*Service adapté en raison du coronavirus (COVID-19)*) [last accessed 25 May 2020].

<sup>103</sup> Belgium, RTBF (2020), Deconfinement: restart of prison visits going well overall, wrong start in the province of Liège (*Déconfinement : la reprise des visites dans les prisons se passe globalement bien, faux départ en province de Liège*), 25 May 2020 [last accessed 26 May 2020]

<sup>104</sup> Belgium, RTBF (2020), Coronavirus in Belgium: a strike warning threatens the opening of prisons to visitors (*Coronavirus en Belgique : un préavis de grève menace l'ouverture des prisons aux visiteurs*), 25 May 2020 [last accessed 26 May 2020]

<sup>105</sup> Belgium, RTBF (2020), Restart of prison visits: the CGSP is satisfied with the concertation on security measures (*Reprise des visites en prison : la CGSP satisfaite de la concertation sur les mesures de sécurité*), 27 May 2020 [last accessed 29 May 2020]

<sup>106</sup> Belgium, International Prison Observatory, Deconfinement in prison: not (in the same way) for all inmates (*Déconfinement en prison : pas (de la même manière) pour tous les détenus*), 27 May 2020 [last accessed 5 June 2020]

<sup>107</sup> Belgium, Myria (2020), Migration and asylum: the numbers of the confinement (*Migration et asile : les chiffres du confinement*) [last accessed 16 May 2020].

<sup>108</sup> Belgium, RTBF (2020), Coronavirus in Belgium: hotlines for victims of domestic violence are saturated (*Coronavirus en Belgique: les lignes d'écoute pour les victimes de violences conjugales sont saturées*), 7 April 2020 [last accessed 2 June 2020].



Council in late April<sup>109</sup> and further shown by a survey Sciensano conducted on the effects of the pandemic in the Belgian population (published in May).<sup>110</sup> According to the survey, for every 5 victims of domestic violence, 2 indicated an increase in the frequency of violence during the confinement. More specifically, between all survey participants who declared to not live alone, 4% claimed to have suffered domestic violence since the beginning of the confinement. 1,6% of responders (included in the aforementioned 4%) further mentioned that such violence was more frequent than before confinement measures started. Furthermore, when compared to a previous research on domestic violence conducted in 2018, the proportion of victims is almost 6 times higher, as only 0,7% of responders in 2018 claimed to be a victim of domestic violence (it must be kept in mind, however, that the questions on the previous research were different, as they were asked outside the pandemic context).

Concerned over this increase, the Flemish Center for General Welfare worked together with Flemish pharmacists to implement in Belgium the code word 'Mask 19' (used in France and Spain) for victims to denounce domestic violence in pharmacies.<sup>111</sup> Pharmacists could then either contact the hotline on the victim's behalf or, in certain cases, the police. This initiative was also supported by the Brussels Pharmacists Union.<sup>112</sup>

At the beginning of May, Belgium's Superior Health Council published a report<sup>113</sup> on mental health during the COVID-19 pandemic, calling on health workers to look for signs of domestic violence, considering how cases were likely to rise with the confinement and isolation measures imposed to combat the spread of the virus. Amnesty International further expressed concern over the rise in cases of domestic violence in Europe and called on European governments to take action to protect victims.<sup>114</sup>

In this regard, the **Flemish Parliament** discussed the topic of domestic violence in May, mentioning that several measures were being taken to address the issue during the COVID-19 crisis, such as temporary restraining orders, opening of shelters for victims and increase in the number of caseworkers working on domestic violence.<sup>115</sup> Similarly, in the **Walloon and Brussels regions**, a task force was created to address the amplified risk of domestic violence during the confinement period. On the **Walloon region** website, instructions on how to reach essential services for victims have been published.<sup>116</sup>

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<sup>109</sup> Belgium, the Belgian Francophone Women Council (2020), COVID-19, the new enemy of women's rights? ([Le COVID-19, nouvel ennemi des droits des femmes ?](#)), 28 April 2020 [last accessed 2 June 2020].

<sup>110</sup> Belgium, Sciensano (2020), [2<sup>nd</sup> COVID-19 health interview surveys](#) [last accessed 19 May 2020].

<sup>111</sup> Belgium, Center for General Welfare (2020), CAW makes expertise on domestic violence available to pharmacists (CAW stelt expertise over huiselijk geweld ter beschikking van apothekers) [last accessed 2 June 2020]

<sup>112</sup> Belgium, RTBF (2020), The code "mask 19" to report a case of domestic violence to your pharmacist ([Le code "masque 19" pour signaler un cas de violence conjugale à son pharmacien](#)), 20 May 2020 [last accessed 2 June 2020].

<sup>113</sup> Belgium, Superior Health Council (2020), Psychosocial care during the COVID-19 pandemic ([Prise en charge psychosociale pendant la pandémie COVID-19](#)) [last accessed 29 May 2020]

<sup>114</sup> Belgium, Amnesty International (2020), [A Guide for Europe](#): Protecting the rights of women and girls in times of COVID-19 pandemic and its aftermath [last accessed 29 May 2020]

<sup>115</sup> Belgium, Flemish Parliament (2020), Committee meeting ([Commissievergadering](#)), 19 May 2020 [last accessed 2 June 2020]

<sup>116</sup> Belgium, Walloon region (2020), Domestic and intra-family violence ([Violences conjugales et intrafamiliales](#)) [last accessed 2 June 2020]

## 2 Impact on fundamental rights of older people

### 2.1 Data/statistics

#### 2.1.1 Share of persons 60+ in the total number of persons in the community infected, recovered and died in relation to COVID-19.

- Infected by COVID-19

In **Belgium**, on 30 May 2020, 58.186 persons have been reported to be infected by COVID-19,<sup>117</sup> including 9.085 residents of care homes for the elderly. The total number of persons infected consists of the following age groups:<sup>118</sup>

- Persons aged 60-69: 3.129 men and 2.510 women
- Persons aged 70-79: 3.252 men and 3.213 women
- Persons aged 80-89: 3.937 men and 7.489 women
- Persons aged 90 and older: 1.406 men and 4.587 women

- Recovered from COVID-19

N/A

- Died in relation to COVID-19

On 30 May 2020, 9.453 persons have died due to (presumed) COVID-19 infection since the beginning of the outbreak, 4.552 of which in hospitals and 4.790 in care homes for the elderly (1.210 confirmed Covid-19 cases and 3.580 cases presumed COVID-19 related).<sup>119</sup>

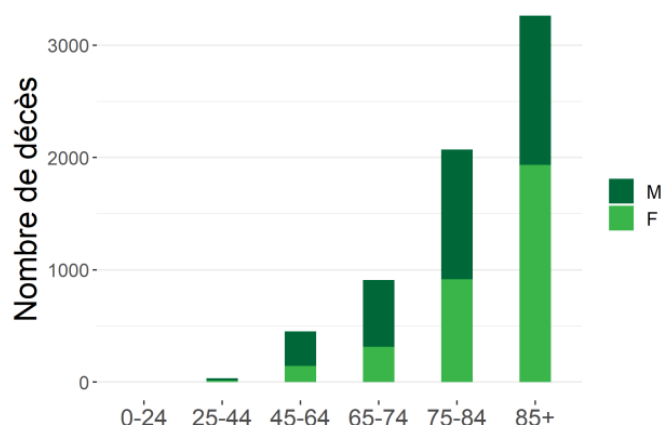


Image source: Belgium, Siensano (2020), '[Covid-19 – Bulletin Epidemiologique du 30 Mai 2020](#)', 30 May 2020 [last accessed 2 June 2020].

Media also report the following breakdown of the total number of deaths by age, based on Siensano data: aged 65-74: 319 women and 594 men; aged 75-84: 920 women and 1.159 men; aged 85 and older: 1.941 women and 1.325 men.<sup>120</sup>

<sup>117</sup> Including tests carried out by the national testing platform since 10 April [last accessed 2 June 2020].

<sup>118</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 ('[Covid-19 – Bulletin Epidemiologique du 30 Mai 2020](#)'), 30 May 2020 [last accessed 2 June 2020].

<sup>119</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 ('[Covid-19 – Bulletin Epidemiologique du 30 Mai 2020](#)'), 30 May 2020 [last accessed 2 June 2020].

<sup>120</sup> Belgium, De Standaard (2020), The Coronavirus in Statistics and Graphs ('[Het coronavirus in België in cijfers en grafieken](#)'), Update of 31 May 2020 [last accessed 2 June 2020].

### 2.1.2 Share of persons 60+ in the total number of persons in institutional settings infected, recovered and died in relation to COVID-19.

- Infected by COVID-19

On 30 May 2020, 9.085 residents of care homes for the elderly were infected with COVID-19 since the outbreak of the virus.<sup>121</sup>

- Recovered from COVID-19

N/A

- Died in relation to COVID-19

On 30 May 2020, 9.453 persons have died due to (presumed) COVID-19 infection since the beginning of the outbreak, 4.552 of which in hospitals and 4.790 in care homes for the elderly (1.210 confirmed Covid-19 cases and 3.580 cases presumed COVID-19 related).<sup>122</sup>

In **Flanders**, there have been 598 deaths that are confirmed to be COVID-19 related in care homes for the elderly, and 1.999 deaths that are suspected to be COVID-19 related.

In **Brussels**, there have been 211 deaths that are confirmed to be COVID-19 related in care homes for the elderly, and 438 deaths that are suspected to be COVID-19 related.

In **Wallonia**, there have been 401 deaths that are confirmed to be COVID-19 related in care homes for the elderly, and 1.143 deaths that are suspected to be COVID-19 related.<sup>123</sup>

### 2.1.3 Number and type of institutions affected

The **Flemish Parliament** reported on 6 May that approximately 57.5 percent of the residential care centres have no corona infections. Just over a quarter of care homes report less than 10 percent infection rates among residents, including both suspected and confirmed cases. In 83 percent of residential care centres, there are less than 10 percent infected residents.<sup>124</sup> On 10 April, **Brussels Minister of Health** Alain Maron had reported in the media that cases of COVID-19 were found in 116 out of 146 care homes for the elderly.<sup>125</sup>

### 2.1.4 Do official statistics on mortality rates from COVID-19 include deaths of older persons in care homes? Has there been any critique of data collection with respect to care homes?

**Belgian** official statistics on mortality rates from COVID-19 include deaths of older persons in care homes. The number of deaths in care homes specifically is also consistently communicated by Government authorities. These include both suspected and confirmed cases of COVID-19 related deaths in care homes.<sup>126</sup> Experts have criticized official numbers including 'suspected' cases of COVID-

<sup>121</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 (['Covid-19 – Bulletin Epidemiologique du 30 Mai 2020'](#)), 30 May 2020 [last accessed 2 June 2020].

<sup>122</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 (['Covid-19 – Bulletin Epidemiologique du 30 Mai 2020'](#)), 30 May 2020 [last accessed 2 June 2020].

<sup>123</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 (['Covid-19 – Bulletin Epidemiologique du 30 Mai 2020'](#)), 30 May 2020 [last accessed 2 June 2020].

<sup>124</sup> Belgium, Flemish Parliament (2020), Plenary Meeting: Current question about the visitors' scheme in the residential care centres ([Plenaire Vergadering: Actuele vraag over de bezoekersregeling in de woonzorgcentra](#)), 6 May 2020 [last accessed 2 June 2020].

<sup>125</sup> Belgium, La Libre (2020), ['A Bruxelles, 116 maisons de repos \(sur 146\) touchées par le Covid-19'](#), La Libre, 10 April 2020 [last accessed 5 June 2020].

<sup>126</sup> Belgium, Siensano (2020), Covid-19 - Epidemiological Bulletin of 30 May 2020 (['Covid-19 – Bulletin Epidemiologique du 30 Mai 2020'](#)), 30 May 2020 [last accessed 2 June 2020].

19 related deaths in care homes, as this causes numbers to be unrealistically high for Belgium and has led to unnecessary worry and panic among the population.<sup>127</sup>

### 2.1.5 Independent studies published on the situation of older persons with respect to the impact of and responses to COVID-19

Sciensano published the result of its second COVID-19 health survey, which focuses on the impact of COVID-19 on the health, use of health services, and lifestyle of the **BELGIAN POPULATION** aged 18 and older. The online survey ran from 16 to 24 April 2020. A total of 42.896 persons responded to the survey, including 2.805 men and 3.240 women aged 65 and older.

The report shows that:

- Persons aged 65 and over have less frequently consulted a doctor in relation to COVID-19: 7% compared to 15,5% - 19,0% of persons aged 25-54.
- Dissatisfaction with social contacts is lowest among persons aged 65 and over (53%) and highest among the 25-34 year olds (69%).
- Persons between 25 and 34 years of age and persons over 65 years of age are the least likely to have a weak social support reported (about 29% compared to percentages ranging between 32% and 34% in the other age groups).<sup>128</sup>

Tele-onthaal<sup>129</sup> assessed the evolution of calls received since the outbreak of COVID-19 in **Flanders**. It noted that the largest increase in new callers is in two categories: persons aged 60 and older and single persons. Annual figures from 2019 show that 19,3% of new callers were older persons, whereas in April 2020 30,4% of all new callers are in the older age categories: 18,33% aged 60-69; 9,77% aged 70-79 and 2,3% aged 80 and older. Older persons who are lonely are unable to build up their network and many of the contacts and activities they had have disappeared since the Covid-19 virus outbreak. These circumstances can lead to an increase in complaints regarding physical and mental health. Older persons are also often extra cautious for fear of getting sick or making others sick. It is possible that there is a connection between one's age and one's emotional and social loneliness. Particularly among older persons who were able to cope before the outbreak, but suddenly become vulnerable due to the coronavirus or the measures taken in response to it. Other factors contributing to loneliness among older persons include: regular support networks and professional assistance no longer being available; lack of contact with family and/or partners; feelings of becoming a burden; lack of accessibility of digital tools and social media.<sup>130</sup>

## 2.2 COVID-19 measures targeting older people

### 2.2.1 National guidelines/protocols in response to COVID-19 addressing older people

- in residential care homes (including protective equipment, visits etc.)

As regards restrictions on visits, please see Bulletin nr. 2 and below (2.2.4).

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<sup>127</sup>Belgium, Gyssels, A. (2020), Belgium in the worst affected countries, but experts denounce way of counting: "Figures cause unnecessary panic" (*'België bij zwaarst getroffen landen, maar experts hekelen manier van tellen: "Cijfers zorgen voor nodeloze paniek"'*), Het Nieuwsblad, 15 April 2020 [last accessed 2 June 2020].

<sup>128</sup> Belgium, Sciensano(2020), Second Covid-19 health survey: first results (*Tweede Covid-19 gezondheidsonquête: eerste resultaten*), 15 May 2020 [last accessed 2 June 2020].

<sup>129</sup> Anyone feeling alone and/or isolated can call 'Tele-onthaal', a telephone hotline for anyone in need of a conversation. If necessary, Tele-Onthaal refers to other services.

<sup>130</sup> Belgium, Tele-onthaal (2020), Loneliness virus strikes: 10% more new calls from 60+ and singles (*'Eenzaamheidsvirus slaat toe: 10% meer nieuwe oproepen van 60+ en alleenstaanden'*), 8 May 2020 [last accessed 2 June 2020].

The **Flemish** COVID-19 measures for residential care homes were updated on 14 May. New measures include that in addition to allowing visitors (see 2.2.4), hairdressers and persons providing pedicures are allowed to enter care homes as of 18 May. Maintenance and repair work carried out by professionals, including the necessary periodic inspections, both in the common areas and in the residents' rooms, are permitted, provided that the social distance of 1.5 metres is respected. The new measures also include detailed guidelines on testing for COVID-19. Care homes are recommended to look for alternatives ways for residents to communicate with visitors (for example through a window), to organise physical exercise and other activities outside their rooms, and to clearly inform all persons involved of visiting regulations.<sup>131</sup>

In **Flanders**, older persons living in assistance homes that are connected to a residential care home, were automatically subject to the same restrictive measures that apply to residential care homes.<sup>132</sup> For instance, the Flemish Elderly Council (Vlaamse Ouderenraad) received a report from family members of an older person in assisted housing who had not been allowed to leave his building since the beginning of the coronavirus-outbreak. He was instructed not to leave by the care home's director, despite being in good health and no cases of COVID-19 being detected in either the care home or in the assisted housing.<sup>133</sup> On 28 May, the Flemish Department of Health announced that from 2 June onwards, assisted living houses that are physically connected to a residential care home can choose to no longer follow the rules that apply to the residential care centre. Upon the condition, however, that the assistance homes can avoid that their residents or visitors come into contact with persons in the residential care home. From 2 June, the autonomously working assistance homes will also be able to welcome new residents.<sup>134</sup>

The **Walloon Government** issued guidelines on how to prepare for the deconfinement of assistance homes on 15 May. Contrary to assistance homes in Flanders, assistance homes connected to a care homes were not automatically subjected to the same restrictive measures applied to residential care homes.<sup>135</sup> The deconfinement entails the progressive resumption of certain activities and/or the return of certain external service providers. If an institution wants to initiate deconfinement there are also minimum conditions that must be fulfilled, such as adherence to health and safety rules as well as social distancing. Other conditions include organising activities outside; self-confinement of residents in case of illness; wearing a mask or protection covering the nose and mouth in shops and on public transportation, which can only be used if there is no alternative; wearing a mouth mask as much as possible when in contact with third parties; ventilating rooms, etc. Until further notice, no intergenerational activities or activities bringing together the residents of the assistance homes and those of care homes for older persons are permitted.<sup>136</sup>

The **Brussels** Department of Care Facilities published specific regulations for care homes for older persons on 15 May,<sup>137</sup> including preventive hygiene rules, organisational measures, and applicable

<sup>131</sup> Belgium, Flemish Department of Well-being, Health and Family (2020), Measures for residential care centres - COVID-19 ([Maatregelen voor de woonzorgcentra – COVID-19](#)), 14 May 2020 [last accessed 2 June 2020].

<sup>132</sup> Belgium, Flemish Department of Well-being, Health and Family (2020), Measures for the notified and recognised groups of assisted housing (GAW) and the service flat buildings (SFG) - COVID-19 ([Maatregelen voor de aangemelde en erkende groepen van assistentiewoningen \(GAW\) en de serviceflatgebouwen \(SFG\) – COVID-19](#)), 14 mei 2020 [last accessed 2 June 2020].

<sup>133</sup> Belgium, Vlaamse Ouderenraad (Flemish Elderly Council), Email of 26 May 2020.

<sup>134</sup> Belgium, Flemish Department of Well-being, Health and Family (2020), Assistance residences can take up residents again as of 2 June ('[Assistentiewoningen kunnen weer bewoners opnemen vanaf 2 juni](#)'), 28 May 2020 [last accessed 2 June 2020].

<sup>135</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights, Covid-19 – Information and guidelines for assistance homes ([COVID-19 - Information et consignes à destination des Résidences-services](#)), 14 March 2020 [Last accessed 5 June 2020].

<sup>136</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights, Covid-19 (coronavirus) - Guidelines for Preparing for Deconfinement in Reception Centres, Day Care Centres and Nursing Homes ([Covid-19 \(coronavirus\) – Directives relatives à la préparation du déconfinement dans les centres d'accueil de jour, les centres de soins de jour et les résidences-services](#)), 15 May 2020 [last accessed 2 June 2020].

<sup>137</sup> These specific measures were developed to complement general regulations provided for all residential care facilities on 11 March.



procedures in case of COVID-19 infections. For instance, when no cases have been detected in the care home, normal activity can be maintained. Social activities can be organized, while strictly implementing rules on hand hygiene and physical distancing measures. Similarly, if no cases of coronavirus have been detected, it is not necessary to isolate residents in their rooms all day. However, as soon as the first cases are detected, it is essential that measures are put in place quickly to prevent the virus from spreading. It may then become necessary for residents to stay in their rooms. The regulations also state that the assessment of residents' state of health, in consultation with the attending physician, and his or her transfer to hospital cannot be more or less strict than before and must not be influenced by the current situation. During transfer to the hospital, the care home is required to inform the hospital of the results of the screening carried out on the resident. To the extent possible, residents who have not yet established an end-of-life project are also asked to start the process with their attending physician in accordance with the applicable procedures.<sup>138</sup>

- in the community in general

In **Belgium**, the Federal Commission of Social Affairs, Employment and Pensions adopted a proposal of law regarding persons aged 65 and older who continue to work after retirement age and supplement their old-age pension with an additional income. They are currently not allowed to combine their pension with temporary unemployment benefits, unlike pensioners younger than 65. Once adopted by the plenary assembly, the new law will rectify this situation.<sup>139</sup>

All stores were allowed to reopen on 10 May 2020.<sup>140</sup> The Government recommends all retailers to give priority to older persons so they can avoid waiting lines.<sup>141</sup>

## 2.2.2 **National guidelines/protocols on patient triage that apply age as the main and decisive criterion**

The Belgian Society of Intensive Care Medicine (SIZ) issued ethical guidelines on provision of critical care during the 2020 COVID-19 pandemic in Belgium. It states that 'many COVID-19 patients will be elderly, but age in itself is not a good criterion to decide on disproportionate care'.<sup>142</sup>

In addition to these guidelines, distributed by the Federal Public Service for Public Health, umbrella organisations of hospitals can develop their own ethical recommendations. The Ethical Care Commission of Leuven Hospital (UZ Leuven) drafted ethical guidelines on triage in the COVID-19 crisis that were distributed among all university hospitals in Belgium. They largely correspond to the SIZ guidelines, but differ in their focus on age.<sup>143</sup> The guidelines seem to call for triage on the basis of age,

<sup>138</sup> Belgium, Brussels Department of Care Facilities Policy (2020), COVID-19 (coronavirus) - Guidelines for rest homes and nursing homes approved and subsidised by COCOM ([COVID-19 \(coronavirus\) – Consignes aux maisons de repos et maisons de repos et de soins agréées et subventionnées par la COCOM](#)), 15 May 2020 [last accessed 2 June 2020].

<sup>139</sup> Belgium, Federal Parliament (2020), Legislative proposal to introduce a right to benefits in case of temporary unemployment of pensioners aged 65 due to the COVID-19 virus ([Proposition de loi visant à introduire un droit à des allocations de chômage temporaires pour les pensionnés de 65 ans et plus en raison du virus COVID-19](#)), adopted by the Commission on 13 May 2020 [last accessed 2 June 2020].

<sup>140</sup> Belgium, Ministerial Order of 8 May 2020 amending the Ministerial Order of 23 March 2020 on urgent measures to combat the spread of the coronavirus COVID-19 ([Arrêté ministériel du 8 mai 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 8 mei 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 8 May 2020 [last accessed 2 June 2020].

<sup>141</sup> Belgium, Federal Public Service of Economy, [Coronavirus – Guide to the opening of businesses](#), 7 May 2020.

<sup>142</sup> 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 [last accessed 5 June 2020].

<sup>143</sup> Belgium, De Jaegere, A. (2020), 'What if there are more patients than hospital beds? Ethical commissions drafted recommendations ('[Wat als er meer patiënten zijn dan ziekenhuisbedden? Ethische commissies werkten voorbij de dagen aanbevelingen uit](#)')', vrt NWS 19 March 2020 [last accessed 8 June 2020].

stating the following: ‘Distinguishing on the basis of chronological age is delicate. Indirectly, this is an important parameter because young age is associated with a greater chance of a better outcome. As a result, a younger patient will be given priority over an older patient with an equally serious condition. (...) The opportunity to gain many life years or to complete one's normal life course can be an additional argument in favour of giving priority to the younger patient in the event of equal chances of success. However, this should not lead to irrational favouring of young patients with a poor prognosis and should not replace careful medical assessment as a criterion, taking into account available time and resources.’<sup>144</sup>

### 2.2.3 Targeted testing of residents and staff in residential care homes

- Is this laid down in a targeted policy/measure or done on an ad-hoc basis when a case has been detected?

In **Belgium**, on 15 April Philippe De Backer, Federal Minister in charge of the task force testing in the fight against the coronavirus, announced that together with regional health ministers Wouter Beke, Alain Maron and Christie Morreale, an agreement was reached on the roll-out of the testing in residential care homes. They agreed to carry out tests on all residents and staff of healthcare institutions, more than 210,000 tests. The target group for these tests is the same for all regions: all nursing staff and all residents who have not yet been tested for COVID 19. Based on the results of these tests, appropriate measures will be taken to avoid a further spread of COVID-19 in care institutions. The health care institutions fall under the competence of the different regions. The federal government provides the materials to carry out the tests and carries out the analysis via a central platform. The regional authorities themselves determine which residential care centres or other collective institutions test them in which order. The regional authorities take care of the purchase of the tests by doctors and nursing staff. This should enable the regional authorities to take appropriate measures for each healthcare institution and thus better protect vulnerable population groups. Wallonia will conduct 66,966 tests, Flanders 121,673 and Brussels 20,702. Every care home has to register the results on a daily basis in a central database. The results of these tests will be communicated to the people tested through their doctors and to the regional authorities. Sciensano, a public scientific institution in the epidemiology of infectious diseases, carries out an epidemiological follow-up of the results.<sup>145</sup>

- Data/statistics on testing & frequency of testing – institutions, residents, staff

In **Flanders**, the media reported on 12 May that according to the Minister of Health, 95 percent of staff tested and 88% of the residents had been tested, and the percentage of positive tests had dropped to 2% for staff and 4% for residents. There were still certain care homes where infections were high, however. In 63,5% of the residential care homes there was no infection (anymore), in 26% the infection was limited to less than 10% of the residents. In another 10% of the residential care homes, more than 10% of the residents was still infected. In 1.7% of the care homes the infection rate is even higher than 30 percent.<sup>146</sup>

The **Walloon** Minister of Health reported in the media that testing of all residential care homes (75.000 tests in total) was finalised on 3 May. Of the first 45,000 tests, 5% of staff were infected (Belgian average: 4%) and 8% of residents were positive (Belgian average: 11%), with percentage likely to

<sup>144</sup> Belgium, Ethische commissie-zorg UZ Leuven, Ethical aspects of making choices in the COVID-19 crisis ([Ethische aspecten van het maken van keuzes in de COVID-19 crisis](#)), 17 March 2020 [last accessed 8 June 2020].

<sup>145</sup> Belgium, Federal Minister Philippe De Backer (2020), Agreement on testing in care institutions ([‘Akkoord rond testing in zorginstellingen’](#)), 13 April 2020 [last accessed 2 June 2020].

<sup>146</sup> Belgium, Winckelmans, W. (2020), Almost all residential care centres fully tested ([‘Bijna alle woonzorgcentra volledig getest’](#)), De Standaard, 12 May 2020 [last accessed 2 June 2020].

decrease as the first tests were taken primarily in care homes with a high number of suspected cases. The minister noted large differences between care homes, with “terrible tragedies in many places, but also a majority of care homes without any cases.”<sup>147</sup>

#### 2.2.4 Restrictions/bans on visits to residential care settings, and any (conditional) lifting of these restrictions

The **Flemish Government** allowed visits to residential care settings for older persons as of 18 May. Conditions include: sufficient staff and protective equipment to organise the visit safely and continue services of the residential care centre; adherence to all rules regarding social distancing and hand hygiene; the visit is limited to 1 visitor per resident and preferably always the same visitor; each visit is by appointment only; the visitor and the resident must not have had any symptoms during the 14 days prior to the visit that indicate COVID-19 and have not tested positive; the visit should take place in the open air or in a separate visitors' area, which can be reached without having to walk unnecessarily through the building; staff (and as much as possible the residents) wear a surgical mask. Visitors wear at least a fabric mouth mask, which they provide themselves.<sup>148</sup>

The **Walloon Government** issued new measures allowing visits to residential care homes for older persons on 27 April (also see Bulletin nr. 2 for conditions). One of the conditions was that in each care homes, supervised visits can only begin once the testing process has been completed.<sup>149</sup> On 15 May, the Government also issued guidelines on deconfinement of assistance homes for older persons. In addition to general conditions for de-confinement (see above, 2.2.1), visits are recommended to take place outside and residents are to air out their flats after each visit. Residents must also inform a staff member when visiting family, relatives or friends and identify these persons for tracing purposes, if necessary.<sup>150</sup>

The **Brussels** Department of Care Facilities issued regulations for care homes for older persons in response to the COVID-19 outbreak regarding visits on 23 April. Visits could only start after testing had been finalised and after a positive advice from the Committee for Prevention and Protection at Work. Other conditions include: sufficient staff to safely organise visits; registering visits in advance, social distancing; one visitor at a time etc. (also see Bulletin nr. 2).<sup>151</sup> On 15 May, the Department issued additional guidelines on deconfinement of care homes for older persons. Care homes are required to notify the Brussels care authorities (Iriscare) by e-mail when visits start, are temporarily stopped or are resumed. Special accommodations can be made for residents in end-of-life situations in order to ensure relatives in first degree can say goodbye.<sup>152</sup>

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<sup>147</sup> Belgium, Jacquemart, B. (2020), Visits to nursing homes will be able to resume (*‘Les visites dans les maisons de repos vont pouvoir reprendre!’*), La Capitale, 4 May 2020 [last accessed 2 June 2020].

<sup>148</sup> Belgium, Flemish Department of Well-being, Health and Family (2020), Visits in the residential care centres possible from 18 May (*‘Bezoek in de woonzorgcentra mogelijk vanaf 18 mei’*), 7 May 2020 [last accessed 2 June 2020].

<sup>149</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights (2020), 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 [last accessed 2 June 2020].

<sup>150</sup> Belgium, Wallonia Office of the Vice-President Minister of Employment, Training, Health, Social Action, Equal Opportunities and Women's Rights (2020), Covid-19 (coronavirus) - Guidelines for supervised visits to approved accommodation and reception establishments in Wallonia (*‘Covid-19 (coronavirus) – Directives relatives à la préparation du déconfinement dans les centres d’accueil de jour, les centres de soins de jour et les résidences-services’*), 15 May 2020 [last accessed 2 June 2020].

<sup>151</sup> Belgium, Brussels Department of Care Facilities Policy (2020), COVID-19 (coronavirus) - Instructions to COCOM-approved and subsidized rest homes and nursing homes concerning supervised visits (*‘COVID-19 (coronavirus) – Consignes aux maisons de repos et maisons de repos et de soins agréées et subventionnées par la COCOM concernant les visites encadrées’*), 23 April 2020 [last accessed 2 June 2020].

<sup>152</sup> Belgium, Brussels Department of Care Facilities Policy (2020), COVID-19 (coronavirus) - Guidelines for rest homes and nursing homes approved and subsidised by COCOM (*‘COVID-19 (coronavirus) – Consignes aux maisons de repos et maisons de repos et de soins agréées et subventionnées par la COCOM’*), 15 May 2020 [last accessed 2 June 2020].

### 2.2.5 Restrictive measures for older people living in the community

In **Belgium**, as of 4 May 2020, social contact is allowed with up to four persons. This entails that grandparents can now take care of their grandchildren as long as they are part of that 'social bubble' of four. However, Government guidelines exclude grandparents aged 65 and over.<sup>153</sup> On 18 May 2020, the Flemish Elderly Council (*Vlaamse Ouderenraad*) condemned this situation and stressed it amounts to age discrimination against grandparents.<sup>154</sup> On 20 May 2020, Unia, the Interfederal Centre for Equal Opportunities, also called on the Government to loosen COVID-19 measures without discriminating against older persons.<sup>155</sup>

### 2.2.6 Access to healthcare for older people for conditions unrelated to COVID-19

N/A

### 2.2.7 Support measures and promising practices targeting older people, including access to goods and services online and offline, social/psychological support, and use of digital tools and technology

In light of the Covid-19 crisis, the **BELGIAN FEDERAL GOVERNMENT** adopted the Federal Plan for Social and Economic Protection (see above, 1.3.1). On 29 May, the Government decided on modalities of the third phase of the plan, including a one-off premium of 250 euros to persons entitled to an income guarantee for the elderly.<sup>156</sup>

The King Baudouin Foundation, the Flemish Elderly Council and the Flemish minister of health offered families the opportunity to have a paper newspaper with their family news delivered free of charge to family members who are isolated due to the current circumstances. The underlying thought was that not everyone is able to use modern technology and social media to stay in touch with relatives. Over 5,400 families accepted the offer and are now sending a weekly newspaper for two months.<sup>157</sup>

In **Brussels**, persons aged 60 and older or caregivers of older persons with questions on how to handle the Coronavirus outbreak can contact Elder, a telephone hotline set up by the Brussels Centre for Mental Health Care (Brussels Centrum voor Geestelijke Gezondheidszorg). Informal carers, volunteers and professional carers with specific questions on older persons with dementia and COVID-19 can contact the dementia centre of expertise 'brOes'.<sup>158</sup>

### 2.2.8 Consultation of older people's organisations and/or other civil society organisations in the design, implementation and review of COVID-19-related measures

In **Belgium**, task forces have been set up at the federal and regional levels on the impact of COVID-19-related measures on vulnerable groups, thereby consulting civil society organisations (see Bulletin nr.

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<sup>153</sup> Belgium, Coronavirus Centre, (2020), Coronavirus Covid-19: questions and answers ([Coronavirus Covid-19: vragen en antwoorden](#)) [last accessed 2 June 2020].

<sup>154</sup> Belgium, Flemish Elderly Council (*Vlaamse Ouderenraad*) (2020), Flemish Elderly Council complains of age discrimination against grandparents (["Vlaamse Ouderenraad klaagt leeftijdsdiscriminatie grootouders aan"](#)), 18 May 2020 [last accessed 2 June 2020].

<sup>155</sup> Belgium, Unia (2020), 'Unia: "Relax corona measures without discriminating on the basis of age" (["Unia: "Versoepel coronamaatregelen zonder te discrimineren op basis van leeftijd"](#))', 20 May 2020 [last accessed 2 June 2020].

<sup>156</sup> Belgium, Sophie Wilmes, Prime Minister of Belgium, in charge of Beliris and Federal Cultural Institutions (2020), ["The third part of the Federal Plan for Social and Economic Protection is being prepared"](#), 29 May 2020 [last accessed 2 June 2020].

<sup>157</sup> Belgium, King Baudouin Foundation (2020), More than 5,400 families keep in touch with a 'From our cot' newspaper (["Meer dan 5.400 families houden contact met een 'Vanuit ons kot'-krant"](#)), 11 May 2020 [last accessed 2 June 2020].

<sup>158</sup> Belgium, Brussel Centre for Mental Health Care (2020), ["Elder"](#) [last accessed 2 June 2020].

2). Only the Flemish task force, however, specifically consults an organisation representing older persons.<sup>159</sup>

The Flemish Elderly Council (Vlaamse Ouderenraad) is a structural part of the Flemish task force on vulnerable families,<sup>160</sup> yet not of the Flemish care task force. The latter consists of representatives of the Flemish Government and care networks, but not civil society.<sup>161</sup> The Council is also consulted on an ad hoc basis by the Flemish minister of health regarding issues related to COVID-19 and there is regular contact with or through Government cabinets when setting up and developing individual initiatives for older persons in Flanders.<sup>162</sup>

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<sup>159</sup> Belgium, 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 [last accessed 8 June 2020].

<sup>160</sup> Belgium, 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 [last accessed 2 June 2020].

<sup>161</sup> Belgium, Flemish Department of Well-being, Health and Family (2020), Taskforce and working groups ([Taskforce en projectgroepen](#)) [last accessed 2 June 2020].

<sup>162</sup> Belgium, Flemish Elderly Council (Vlaamse Ouderenraad), Email of 25 May 2020.