

## 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, including enforcement actions

- **Law extending the state of health emergency**

In light of the current sanitary crisis, a “state of health emergency” was declared initially on 23 March for a two-month period.<sup>1</sup> It was extended until 10 July 2020 by the Law n° 2020-546 of 11 May.<sup>2</sup>

This text outlines the restrictions that remain applicable after the lifting of the lockdown but also contains some new measures. In particular, it incorporates provisions for quarantine or isolation of people arriving in France and provides the establishment of “information systems” relating to people affected by the virus or who have been in contact with infected persons for the purpose of combating the Covid-19 epidemic.

- **Court ruling**

This new law was submitted to the Constitutional Council by the President of the Republic, the President of the Senate, and by parliamentarians. On 11 May, the Council held that the majority of its provisions were in conformity with the Constitution, but it imposed two partial censures and some “interpretation reservations”.<sup>3</sup>

The institution censored in the name of “individual freedom” Article 13 of the referred Law which was keeping in force, until 1<sup>st</sup> June, the previous legal framework linked to measures of quarantine, placement and maintenance in isolation in case of health emergency. It considered that it does not provide sufficient guarantees for their implementation. In addition, the Council demanded more safeguards for civil liberties concerning the new measures for persons arriving from abroad. It ruled that the provisions in question should not allow the prolongation of the measures of quarantine or isolation “during a time slot of more than twelve hours per day without the authorisation of a judicial judge”.

The second censure regards the stakeholders who may access the information systems aimed to combat the Covid-19 epidemic (Article 11 of the Law). Precisely, the institution held that the communication of data, without the consent of the persons concerned, to organisations which provide social support is not justified on the grounds that this support does not directly relate to the fight against the epidemic. It concluded, thereby, that this provision violates the right to privacy and does not conform to the Constitution. Moreover, it estimated that not only the name, registration number in the national directory of identification of natural persons and the address, but also the telephone and electronic contact information of data subjects must be deleted.<sup>4</sup>

- **Implementation measures**

In application of the Law n° 2020-546 several texts have been adopted. One of the most important is the decree issued on 11 May which specifies the general measures needed to deal with the Covid-19

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<sup>1</sup> France, Emergency Law n° 2020-290 of 23 March 2020 to deal with the covid-19 epidemic, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041746313&dateTexte=20200507>

<sup>2</sup> France, Law n° 2020-546 of 11 May 2020 extending the state of health emergency and supplementing its provisions, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041865244&dateTexte=20200519>

<sup>3</sup> France, Constitutional Council, Decision n° 2020-800 DC, 11 May 2020, available at: <https://www.conseil-constitutionnel.fr/decision/2020/2020800DC.htm>

<sup>4</sup> France, Constitutional Council, Decision n° 2020-800 DC, 11 May 2020, available at: <https://www.conseil-constitutionnel.fr/decision/2020/2020800DC.htm>

epidemic. It mainly contains provisions limiting areas of movement and imposing the wearing of masks on transport. It establishes the control of the price of masks and hydro-alcoholic gels: the retail price of a mask cannot exceed €0,95, while the retail price of a 50ml bottle is capped at €1,76, 100ml at €2,64, 300ml at €4,40, and a litre at €15. It also authorises the requisitioning of goods, services or persons necessary to fight the health crisis (e.g. health or medico-social establishments, raw materials needed for manufacturing face-masks, operators participating in the funeral service).<sup>5</sup>

Furthermore, a decree was adopted on 29 May relating to the processing of data called 'StopCovid'.<sup>6</sup> It stipulates the creation of a mobile application that aims to inform people who have been in contact with someone infected with Covid-19 and who uses the same application due to "the conservation of the proximity history of pseudonyms issued via Bluetooth technology". Downloading and using the application are "voluntary and free". The 'public interest mission', under Article 6 of the GDPR, is its legal basis. Treatment is carried out for a period not exceeding six months after the cessation of the state of health emergency. Data are stored for fifteen days from their registration by this application. When they have been shared on the central server, data are stored on this server for fifteen days from their registration by the mobile phone application.<sup>7</sup> The 'StopCovid' application is expected to be available to the public on 2 June to accompany the second phase of easing lockdown measures.<sup>8</sup>

- **Concerns**

Concerns arose over the adoption of this law extending the state of health emergency. On 3 May, the Public Defender of Rights addressed a letter to the Presidents of the National Assembly and the Senate to draw attention to certain aspects. Regarding especially the creation of information systems for the purpose of combating the Covid-19 epidemic, the national body highlighted that it is essential that "legal measures be adapted to the particular sensitivity of the health data" and that the law relies on the "understanding and informed consent, for everyone".<sup>9</sup>

For its part, the National Consultative Commission on Human Rights (CNCDH) called to lift "all restrictive measures whose necessity is not or is no longer strictly established". The independent institution stressed particularly that the resumption of economic activity must be accompanied by the withdrawal of temporary derogations from labour law and that the administrative, judicial and constitutional courts must resume normal functioning without delay. It deplored that the text "has no provision in this sense".<sup>10</sup>

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<sup>5</sup> France, Decree n° 2020-548 of 11 May 2020, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200518>

This text repealed and replaced the decree n° 2020-545 of 11 May which was only valid until 12 May, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041858681&categorieLien=id>

<sup>6</sup> France, Decree n° 2020-650 of 29 May 2020, available at:

<https://www.legifrance.gouv.fr/eli/decree/2020/5/29/SSAZ2012567D/jo/texte?fbclid=IwAR0rcvF0Xsvhlw7hjA8i1tKPrsYbwf9cZAnXkbarpbh1yuno1vZDj6VXBDg>

<sup>7</sup> France, Decree n° 2020-650 of 29 May 2020, available at:

<https://www.legifrance.gouv.fr/eli/decree/2020/5/29/SSAZ2012567D/jo/texte?fbclid=IwAR0rcvF0Xsvhlw7hjA8i1tKPrsYbwf9cZAnXkbarpbh1yuno1vZDj6VXBDg>

<sup>8</sup> France, Prime Minister, "Press conference on the second stage of deconfinement", 28 May 2020, available at:

<https://www.gouvernement.fr/partage/11591-conference-de-presse-sur-la-deuxieme-etape-du-deconfinement>

<sup>9</sup> France, Public Defender of Rights, "The Defender of Rights calls the attention of Parliament to the bill extending state of emergency health", 3 May 2020, available at: <https://www.defenseurdesdroits.fr/fr/a-la-une/2020/05/le-defenseur-des-droits-attire-lattention-du-parlement-en-vue-de-lexamen-du-projet?fbclid=IwAR2gs60vhYyK7Pzn1rAJQW34KE69bRAQ9WstmkvleLoilimSXMD77Tiojr0>

<sup>10</sup> France, National Consultative Commission on Human Rights, "Letter addressed to the Prime Minister", 3 May 2020, available at: [https://www.cncdh.fr/sites/default/files/cncdh-pm-pjl\\_prorogation\\_eus-03.05.2020-signe\\_002.pdf](https://www.cncdh.fr/sites/default/files/cncdh-pm-pjl_prorogation_eus-03.05.2020-signe_002.pdf)

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

- **Lifting of stay at home orders**

The French authorities had imposed lockdown measures to deal with the Covid-19 epidemic. On 11 May, a gradual deconfinement started. Decree n° 2020-548 detailed the procedures for classifying the territory into green and red zones depending on the health situation of the departments. The key criteria for this classification were the number of people going to the Emergency Room for likely contamination with Covid-19, the rate of occupancy of beds available in the department's intensive care units and the ability to perform virological tests. The situation of each department was updated regularly. Some stricter rules applied in red zones. For example, the access to public parks and gardens remained closed.<sup>11</sup>

From 11 May to 2 June, people were allowed out of their homes without having to produce a self-certification. Travelling was also possible. However, trips to another department of France of more than 100km from home were forbidden. A few exceptions were possible, notably, for those who had to go to work, to school, for medical appointments, and for vital family or judicial reasons. In these cases, people were required to carry an attestation form stating the reason for the displacement. They could print out or generate a digital document in accordance with their preference.<sup>12</sup>

The second phase of the deconfinement plan started on 2 June. A decree adopted on 31<sup>st</sup> May defines, *inter alia*, a new deconfinement map with green and orange areas and that travelling farther than 100km will be then possible.<sup>13</sup>

- **Gatherings and meetings**

The decree n° 2020-548 of 11 May also banned all gatherings, meetings or activities for a non-professional reason that brings together more than 10 people simultaneously on the public highway or in a public place. However, they may be allowed when they are considered to be "essential to the continuity of the life of the Nation". No event bringing together more than 5,000 people can take place on the territory of the Republic until the 31<sup>st</sup> August 2020.<sup>14</sup>

Any gathering in places of worship, except funerals, was prohibited. After receiving complaints from several individuals and NGOs, *inter alia* the association 'Civitas', the Council of State ruled on 18 May that this "general and absolute" ban is disproportionate and constitutes a "serious and manifestly illegal infringement" of the freedom of worship. Thus, it enjoined the Government to modify the

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<sup>11</sup> France, Decree n° 2020-548 of 11 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200529>

This text was modified by decree n° 2020-604 of 20 May, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041897835&categorieLien=id>

On 31<sup>st</sup> May, the decree of 11 May was repealed and replaced by decree n° 2020-663, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605>

<sup>12</sup> France, Government, "Displacement certificate", 13 May 2020, available at: <https://www.interieur.gouv.fr/Actualites/L-actu-du-Ministere/Deconfinement-Declaration-de-deplacement>

<sup>13</sup> France, Decree n° 2020-663 of 31<sup>st</sup> May 2020, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605>

<sup>14</sup> France, Decree n° 2020-548 of 11 May 2020, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200529>

relevant text within the next eight days.<sup>15</sup> On 22 May, a new decree was adopted authorising the resumption of public worship.<sup>16</sup>

- **Barrier gestures**

Social distancing and hygiene measures – called “barriers” – have to be respected regardless of the place and the circumstances. These measures include physical distance of at least one meter between two people, washing hands regularly, coughing or sneezing into a bent elbow or tissue, and avoiding touching the face.<sup>17</sup>

- **Face-masks**

Furthermore, face-masks became compulsory on all public transport, metro, trains, buses, taxis, planes and school buses, or entering certain shops from 11 May, except for children until 11 years old and “people with disabilities with a medical certificate justifying this exemption”.<sup>18</sup>

It was announced that the “State will bear 50% of the cost of masks for the general public” ordered and delivered between 13<sup>th</sup> April and 1<sup>st</sup> June by local authorities.<sup>19</sup> In this respect, the National Consultative Commission on Human Rights alerted that masks are “inaccessible to part of the population” due to the absence of reimbursement or free distribution.<sup>20</sup>

- **Measures aimed to enforce social distancing**

In order to ensure lockdowns were respected, drones had been deployed in multiple cities in France. The NGO ‘Ligue des Droits de l’Homme’ and the advocacy group ‘Quadrature du Net’ filed a case against the Paris drone flights before the Council of State. On 18 May, the highest administrative court ruled that the authorities could no longer use aerial drones to “carry out surveillance measures, in Paris, in compliance with the health security rules applicable to the deconfinement period”. Given the risk that the devices could be used contrary to personal data protection rules, the court considered that the implementation of this processing of personal data violates the “right to respect for private life”. Thus, the Government has two options: either issue a decree setting out conditions of their use and secure approval from the national data privacy watchdog (CNIL), or equip the drones with technology that makes it impossible to identify the people being filmed.<sup>21</sup>

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<sup>15</sup> France, Council of State, Decision n° 440366 and following, 18 May 2020, available at: <https://www.conseil-etat.fr/actualites/actualites/rassemblements-dans-les-lieux-de-culte-le-conseil-d-etat-ordonne-au-premier-ministre-de-prendre-des-mesures-moins-contraindantes>

<sup>16</sup> France, Decree n° 2020-618 of 22 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041903745&categorieLien=id>; Ministry of Interior, “Christophe Castaner’s press release on the resumption of religious ceremonies”, 22 May 2020, available at: <https://www.interieur.gouv.fr/Le-ministre/Communiqués/Communiqué-de-presse-de-Christophe-Castaner-sur-la-reprise-des-ceremonies-religieuses>

<sup>17</sup> France, Decree n° 2020-548 of 11 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200529>

<sup>18</sup> France, Decree n° 2020-548 of 11 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200529>

<sup>19</sup> France, Government, “General public masks”, 27 April 2020, available at: <https://www.gouvernement.fr/info-coronavirus/masques-grand-public>

<sup>20</sup> France, National Consultative Commission on Human Rights, “State of emergency health: emergency to guarantee access to care”, 6 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncdh.lettre5.pdf>

<sup>21</sup> France, Council of State, Decision n° 440442, 440445, 18 May 2020, available at: <https://www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/conseil-d-etat-18-mai-2020-surveillance-par-drones>

Moreover, the categories of persons empowered to observe the breaches of restrictions on various agents have been extended.<sup>22</sup> Besides police officers, many other agents are now able to sanction those who do not comply, such as sworn agents of the operator of a transportation service for measures relating to the movement and access of people and vehicles to means of transport, and ship captains for breaches committed by a passenger on board a ship.<sup>23</sup>

- **Penalties**

Violation of the new prohibitions or breaches of the new obligations enacted by the decree n° 2020-548 of 11 May are punished by the provisions of Article L. 3136-1 of the Public Health Code.<sup>24</sup> In particular, as of 12 May the violation of the rules related for example to masks, travelling over 100 km, or gatherings over the stated limit are punishable by a €135 fine that can go up to a €3,750 fine and a maximum penalty of a six-month prison term in case of multiple offending.<sup>25</sup>

Concerns remain over police powers to issue fines. In an open letter of 13 May, 24 local, national, and international organisations, including ‘Human Rights Watch’ and the ‘French Lawyers Union’, called on the French Government to take urgent and concrete steps to end discriminatory police checks. They notably underline that since the beginning of the lockdown, “many accounts, some corroborated by videos posted on social networks, reveal police stops that appear abusive, violent, and discriminatory, sometimes accompanied by racist insults”.<sup>26</sup>

According to information given to the press by the Secretary of State for Transport on 19 May, 200,000 checks have been carried out for trips over 100 km and 950 fines have been issued.<sup>27</sup>

## 1.2.2 Education

- **Steps to reopen educational institutions**

A gradual reopening of schools started on 11 May.

- Day care (0-3 years old):

The reopening of day-care centres was scheduled to start on 11 May and a priority scale was drawn up. Priority was given first to the children of caregivers, staff of medico-social establishments or staff assigned to child welfare missions, then to the children of teachers, dual working couples when at least one of the two parents cannot work remotely, and single-parent families.<sup>28</sup>

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<sup>22</sup> France, Law n° 2020-546 of 11 May 2020 extending the state of health emergency and supplementing its provisions, art. 9, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041865244&dateTexte=20200519>

<sup>23</sup> France, Ministry of Justice, Circular of 14 May 2020, available at: <http://www.justice.gouv.fr/bo/2020/20200518/JUSD2011873C.pdf>

<sup>24</sup> France, Article L. 3136-1 of the Public Health Code, available at: [https://www.legifrance.gouv.fr/affichCode.do?sessionId=CC3F091C7BB178227EED7934F80274BB.tplgfr33s\\_3?idSectionTA=LEGISCTA000006171186&cidTexte=LEGITEXT000006072665&dateTexte=20200528](https://www.legifrance.gouv.fr/affichCode.do?sessionId=CC3F091C7BB178227EED7934F80274BB.tplgfr33s_3?idSectionTA=LEGISCTA000006171186&cidTexte=LEGITEXT000006072665&dateTexte=20200528)

<sup>25</sup> France, Ministry of Justice, Circular of 14 May 2020, available at: <http://www.justice.gouv.fr/bo/2020/20200518/JUSD2011873C.pdf>

<sup>26</sup> France, NGOs’ and unions’ Joint open letter to the French Government, “The French authorities should urgently take concrete measures to end discriminatory police checks and fines”, 13 May 2020, available at: <https://www.hrw.org/news/2020/05/15/france-end-discriminatory-police-checks-and-fines>

<sup>27</sup> France, Le Parisien, “100 km limit: 200,000 checks carried out in France, 950 fines distributed”, 19 May 2020, available at: <http://www.leparisien.fr/societe/limite-de-100-km-200-000-controles-effectues-en-france-950-amendes-distribuees-19-05-2020-8319693.php>

<sup>28</sup> France, Ministry of Health, “COVID-19 Ministerial Guide Childcare arrangements”, 6 May 2020, available at: <https://ff-entreprises-creeches.com/wp-content/uploads/2020/05/guide-deconfinement-petite-enfance-covid-19.pdf>



- Primary schools (kindergartens and elementary schools):

The reopening was scheduled to start on 11 May. The Minister clarified that parents remain free to keep their children at home if they wish, but will then have to ensure educational continuity via distance learning. Priority is given “if possible” to final year classes of kindergartens and to the first and last years of elementary school, as well as to pupils with special educational needs or disabilities, children of nursing staff, and 500,000 children identified as “dropouts”.<sup>29</sup> As regards this latter category, targeting in particular children from socioeconomically disadvantaged backgrounds,<sup>30</sup> a circular indicates that “pupils who have not regularly participated in distance education are given special attention in order to put them in favourable learning conditions and thus prevent a possible risk of dropping out of school”.<sup>31</sup>

- Secondary schools:

For Grades 6 and 5 of “collèges” (first two years), a reopening was planned for the establishments of the departments in green zones from 18 May.<sup>32</sup> On 28 May, the Prime Minister declared that from 2 June all “collèges” will open in strict compliance with the health protocol. However, for “collèges” in orange zones (which will replace red zones from 2 June), priority will be given to pupils of Grades 6 and 5. The “lycées généraux” in green zones will also reopen on 2 June.<sup>33</sup>

The final baccalaureate exam is canceled. Pupils will be evaluated on their marks during the year under continuous assessment (*‘contrôle continu’*). The notes they received during the confinement will not be taken into account.<sup>34</sup>

- Third level educational facilities:

Higher education institutions remain closed. The President of the Republic announced that “courses will not resume physically until summer”.<sup>35</sup>

One week after the reopening of kindergartens and elementary schools, the Minister of Education declared to the press that seventy schools have closed or postponed the reopening because of proven or suspected cases of Covid-19.<sup>36</sup> On 28 May, more than 80% of primary schools have opened.<sup>37</sup>

With regard to the specific situation of children from socioeconomically disadvantaged backgrounds, 6 NGOs welcomed the measures taken by public authorities against inequality. Nevertheless, they alert that beyond the targeted territories, “children and young people in very precarious situations living in slums, squats, social hotels, emergency and integration accommodation, reception areas for Travellers, structures for the protection of childhood, are exposed to difficulties and increased risks of

<sup>29</sup> France, Ministry of National Education, “Deconfinement: update on 7 May”, 7 May 2020, available at: <https://www.education.gouv.fr/deconfinement-point-de-situation-au-7-mai-303594>

<sup>30</sup> France, Hearing of the Minister of Health before the National Assembly, 6 May 2020, available at: [http://www.assemblee-nationale.fr/dyn/15/comptes-rendus/covid19/115covid191920012\\_compte-rendu](http://www.assemblee-nationale.fr/dyn/15/comptes-rendus/covid19/115covid191920012_compte-rendu)

<sup>31</sup> France, Ministry of National Education, Circular of 4 May 2020, available at: <https://www.education.gouv.fr/bo/20/Hebdo19/MENE2011220C.htm>

<sup>32</sup> France, Ministry of National Education, “Information and recommendations for schools, staff and families”, available at: <https://www.education.gouv.fr/coronavirus-covid-19-informations-et-recommandations-pour-les-etablissements-scolaires-les-274253>

<sup>33</sup> France, Ministry of National Education, “Deconfinement Phase 2: update on 28 May”, 28 May 2020, available at: <https://www.education.gouv.fr/deconfinement-phase-2-point-de-situation-au-28-mai-303813>

<sup>34</sup> France, Ministry of National Education, “Questions/Answers - Coronavirus Covid 19”, available at: <https://www.education.gouv.fr/bac-brevet-cap-bep-bts-2020-les-reponses-vos-questions-303348>

<sup>35</sup> France, Presidency of the Republic, “Address to the French people”, 13 April 2020, available at: [www.elysee.fr/emmanuel-macron/2020/04/13/adresse-aux-francais-13-avril-2020](http://www.elysee.fr/emmanuel-macron/2020/04/13/adresse-aux-francais-13-avril-2020)

<sup>36</sup> France, Le Monde, “Coronavirus: seventy schools closed for proven or suspected cases of Covid-19”, 19 May 2020, available at: [https://www.lemonde.fr/education/article/2020/05/19/soixante-dix-ecoles-fermees-pour-des-cas-averes-ou-suspectes-de-covid-19\\_6040118\\_1473685.html](https://www.lemonde.fr/education/article/2020/05/19/soixante-dix-ecoles-fermees-pour-des-cas-averes-ou-suspectes-de-covid-19_6040118_1473685.html)

<sup>37</sup> France, Ministry of National Education, “Deconfinement Phase 2: update on 28 May”, 28 May 2020, available at: <https://www.education.gouv.fr/deconfinement-phase-2-point-de-situation-au-28-mai-303813>



dropping out even though their relationship with school is essential". This is why they call for concrete measures to be provided "for a better consideration of all children and young people" (e.g. to ensure their access to digital tools and that they benefit from school support).<sup>38</sup>

- **Measures of protection**

On the basis of the recommendations of the 'Covid-19 Scientific Council',<sup>39</sup> a health protocol for schools has been established. In general, this document relies on five fundamentals: maintaining physical distance; application of barrier gestures; limiting the mixing of students; cleaning and disinfection of premises and equipment; training, information and communication.<sup>40</sup>

It is intended that classes be held in small groups of 10 students maximum for kindergartens, and 15 for other age groups.<sup>41</sup> The regulations adopted to deal with the Covid-19 epidemic make it compulsory for staff to wear a "general public" mask in the presence of students. The wearing of a mask is "prohibited" for children in kindergartens, "not recommended" in elementary schools,<sup>42</sup> and "compulsory" in secondary schools in all situations where compliance with the rules of distancing may not be respected.<sup>43</sup>

### 1.2.3 Work

- **Return to work**

In view of the gradual deconfinement starting from 11 May, the Economy Minister stated that "400,000 businesses representing 875,000 jobs will reopen".<sup>44</sup> On the contrary, the decree n° 2020-548 provides a list of establishments that should remain closed, such as restaurants, cafes, cinemas, theaters, performance halls, dance halls, game rooms, trade fairs, museums and covered sports establishments.<sup>45</sup>

A national post-lockdown protocol was issued on 9 May to facilitate the return to work. This text provides information and practical measures aimed at preserving the health and safety of employees. It introduces several fundamental principles for the deconfinement process implemented in each company and establishment: avoid the risk of exposure to the virus; assess the risks that cannot be avoided; give priority to collective over individual protection measures. More precisely, employers are

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<sup>38</sup> France, NGOs' Joint open letter, "Back to school: don't forget the most vulnerable children!", 4 May 2020, available at: <https://www.ldh-france.org/retour-a-lecole-noublions-pas-les-enfants-les-plus-vulnerables/>

<sup>39</sup> France, Covid-19 Scientific Council, "Children, schools and family environment in the context of the COVID-19 crisis", 24 April 2020, available at:

[https://solidarites-sante.gouv.fr/IMG/pdf/note\\_enfants\\_ecoles\\_environnements\\_familiaux\\_24\\_avri\\_2020.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/note_enfants_ecoles_environnements_familiaux_24_avri_2020.pdf)

<sup>40</sup> France, Ministry of National Education, "Coronavirus Covid-19 - Reopening of schools, colleges and high schools", available at: <https://www.education.gouv.fr/coronavirus-covid-19-reouverture-des-ecoles-colleges-et-lycees-303546>

<sup>41</sup> France, Ministry of National Education, Circular of 4 May 2020, available at: <https://www.education.gouv.fr/bo/20/Hebdo19/MENE2011220C.htm>

<sup>42</sup> France, Ministry of National Education, "Sanitary protocol - Guide relating to the reopening and functioning of kindergartens and elementary schools", 3 May 2020, available at:

[https://www.gouvernement.fr/sites/default/files/guide\\_relatif\\_a\\_la\\_reouverture\\_et\\_au\\_fonctionnement\\_des\\_ecoles\\_maternelles\\_et\\_elementaires.pdf](https://www.gouvernement.fr/sites/default/files/guide_relatif_a_la_reouverture_et_au_fonctionnement_des_ecoles_maternelles_et_elementaires.pdf)

<sup>43</sup> France, Ministry of National Education, "Information and recommendations for schools, staff and families", available at: <https://www.education.gouv.fr/coronavirus-covid-19-informations-et-recommandations-pour-les-etablissements-scolaires-les-274253>

<sup>44</sup> France, Le Parisien, "Deconfinement: 400,000 companies will be able to reopen on Monday, announces Bruno Le Maire", 7 May 2020, available at: <http://www.leparisien.fr/economie/deconfinement-400-000-entreprises-vont-pouvoir-rouvrir-lundi-annonce-bruno-le-maire-07-05-2020-8312673.php>

<sup>45</sup> France, Decree n° 2020-548 of 11 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=LEGITEXT000041866783&dateTexte=20200529>

strongly encouraged to implement teleworking, when this is possible. Regarding measures to protect employees in the workplace, the protocol reminds of, *inter alia*, the need to respect the principal barrier gestures, clean surfaces and objects frequently, and to stay at home if symptoms of Covid-19 occur. General test campaigns within a company are not authorised.<sup>46</sup>

The Ministry of Labour has published on its website practical information sheets as well as guides created by the French professional branches in order to help employees and employers in the implementation of protective measures against Covid-19 in the workplace and to ensure the continuity of economic activity. Some sheets have been specially translated (e.g. into English, Spanish, Romanian, Arabic) for people with a low level of French proficiency<sup>47</sup>.

According to the decree of 31<sup>st</sup> May, cafes, bars and restaurants will reopen as of 2 June in green zones. Only the terraces of these establishments will reopen in the “orange zones”.<sup>48</sup>

- **End of the exceptional sick leave**

Parents of children under the age of 16 who could not find child care and employees deemed vulnerable (heart condition, pregnant, etc.) had the right to a specific paid sick leave since March. However, as of 1 May, these beneficiaries are subject to the “partial activity” mechanism.<sup>49</sup> They now receive compensation equal to 70% of their gross salary, or around 84% of their net salary. If they are paid minimum wage, their salary is maintained at 100%. This compensation will be paid to the employee on the normal due date of pay by the company, which will be reimbursed in full by the state under the same conditions as the rest of the partial activity.<sup>50</sup>

- **Partial activity system**

Since the start of the lockdown, companies may implement the “partial activity” mechanism (or called “partial unemployment”).<sup>51</sup> The Prime Minister announced that this system “which is one of the most generous in Europe, will remain in place until the 1<sup>st</sup> of June”.<sup>52</sup>

- **Postponement of payments**

In a press release dated 4 May, the Minister of Action and Public Accounts announced the renewal of the possibility for companies facing difficulties to defer their social and tax payments. No prior application is necessary for companies with fewer than 5,000 employees. However, for companies with 5,000 employees or more, the possibility of deferrals for the month of May will be granted on request, after prior exchange with the collection agency, and in priority to those that have not received

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<sup>46</sup> France, Ministry of Labour, “National post-lockdown protocol for businesses aimed at preserving health and the security of the employees”, 9 May 2020, available at: <https://travail-emploi.gouv.fr/IMG/pdf/protocole-national-de-deconfinement.pdf>

<sup>47</sup> France, Ministry of Labour, “Protecting workers, jobs, *savoir-faire* and competencies”, available at: <https://travail-emploi.gouv.fr/le-ministere-en-action/coronavirus-covid-19/protoger-les-travailleurs-les-emplois-les-savoir-faire-et-les-competences/protoger-les-travailleurs/article/fiches-conseils-metiers-et-guides-pour-les-salaries-et-les-employeurs>

<sup>48</sup> France, Decree n° 2020-663 of 31<sup>st</sup> May 2020, available at: [www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605)

<sup>49</sup> France, Law n° 2020-473 of 25 April 2020, art. 20, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041820860>

<sup>50</sup> France, Ministry of Labour, “Vulnerable people and employees in custody for child care: a new simple and protective device”, 17 April 2020, available at: <https://travail-emploi.gouv.fr/actualites/presse/communiqués-de-presse/article/personnes-vulnerables-et-salaries-en-arret-pour-garde-d-enfant-un-nouveau>

<sup>51</sup> France, Government, “Which are the support measures and useful contacts to accompany you?”, 11 March 2020, available at: [https://www.gouvernement.fr/sites/default/files/content/piece-jointe/2020/03/brochure\\_fiches\\_pratiques\\_sur\\_les\\_mesures\\_de\\_soutien.pdf](https://www.gouvernement.fr/sites/default/files/content/piece-jointe/2020/03/brochure_fiches_pratiques_sur_les_mesures_de_soutien.pdf)

<sup>52</sup> France, Government, “Presentation of the national deconfinement strategy”, 28 April 2020, available at: [www.gouvernement.fr/partage/11518-discours-de-m-edouard-philippe-premier-ministre-presentation-de-la-strategie-nationale-de](http://www.gouvernement.fr/partage/11518-discours-de-m-edouard-philippe-premier-ministre-presentation-de-la-strategie-nationale-de)

a state-guaranteed loan. They must also respect a commitment not to pay dividends and not to repurchase shares between 27 March and 31 December 2020. In addition, they must not have their registered office or one of their subsidiaries in a state or territory that is not a tax-cooperative territory.<sup>53</sup>

- **Financial support**

France intends to reward the effort of the staff mobilised in response to the Covid-19 epidemic. To this end, two decrees were adopted on 14 May. The first establishes the payment of an exceptional bonus to all persons who “exercised their functions effectively” in public health establishments. Hospital staff treating coronavirus patients during the epidemic can receive one-off and tax-free sums of €1,500 and other health workers €500.<sup>54</sup> The second text stipulates that civil and military agents of the State public service can also receive a grant of up to €1,000 each.<sup>55</sup> In a press interview on 17 May, France’s Health Minister said he wanted to unveil by summer a new support plan for hospitals and health workers who have been on the frontline of the fight against the coronavirus pandemic. This plan would include a pay raise for health workers in addition to bonuses they have already received.<sup>56</sup>

As of 18 May, companies with less than 50 employees and self-employed workers can apply for a grant called “COVID prevention” for the purchase or rental of equipment dedicated to the protection of employees at the workplace. This aid from the public health insurance fund, capped at 5,000 euros, allows financing up to 50% (without taxes) of the investment. Requests must be made to the regional mutuals.<sup>57</sup>

- **Concerns**

In the 6<sup>th</sup> letter of the ‘Observatory of the State of Sanitary Emergency and of Containment’, the National Consultative Commission for Human Rights highlighted that the measures taken in the context of the Covid-19 crisis had a considerable impact on workers’ rights, reinforced pre-existing inequalities and created new situations of vulnerability.<sup>58</sup>

The Commission regrets that “the protection of employees has not always been well ensured”. The sectors of activity “essential to the life of the nation” had not been defined, as a result “many workers have had to expose themselves unnecessarily to the risk of contamination at their workplace or in transport”. It stresses in addition that not all people who can work remotely benefit from good working conditions. Teleworking “exacerbates the difficulty of reconciling family and professional life and brings new problems, such as non-compliance with working hours and hyperconnectivity”, which generate significant psychosocial risks.

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<sup>53</sup> France, Ministry of Action and Public Accounts, “Extension of the possibilities for postponing social security and tax contributions to May for companies facing difficulties”, 4 May 2020, available at: <https://www.economie.gouv.fr/reconduction-possibilites-report-cotisations-contributions-sociales-mois-mai>

<sup>54</sup> France, Decree n° 2020-568 of 14 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041880665&categorieLien=id>

<sup>55</sup> France, Decree n° 2020-570 of 14 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041880864&dateTexte=20200520>

<sup>56</sup> France, RFI, “French health minister wants to boost wages for health workers”, 17 May 2020, available at: <http://www.rfi.fr/en/france/20200517-french-health-minister-veran-wants-pay-raise-for-covid-19-health-workers-coronavirus>

<sup>57</sup> France, Health Insurance, “A grant to help businesses prevent Covid-19 at work”, available at: <https://www.ameli.fr/paris/entreprise/covid-19/une-subvention-pour-aider-les-tpe-et-pme-prevenir-le-covid-19-au-travail>

<sup>58</sup> France, National Consultative Commission on Human Rights, “State of health emergency and protection of workers”, 14 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre6.pdf>

Moreover, it recognises that many measures have been put in place by the Government to offset certain effects of the health crisis on workers. However, it underlines that they do not cover all categories of employees, and that many precarious workers, self-employed, and unemployed people are in great difficulty.<sup>59</sup>

#### 1.2.4 Access to justice

- **Gradual resumption of the activity in courts**

In order to reduce the spread of the Covid-19 virus, courts were closed since 16 March except for the processing of some litigation (e.g. criminal and civil emergency services of the courts, imprisonment in decent conditions for detainees, reception of minors entrusted to the judicial protection of youth).<sup>60</sup> Since 11 May, the resumption of the activity in courts is done gradually. Priority is given to the following litigation:

- For civil jurisdictional activity: procedures/requests presenting a degree of urgency before the president of the judicial tribunal, liberty and detention judge (compulsory hospitalisation and foreigners' litigation), family judge and children's judge, economic litigation, etc.
- For criminal jurisdictional activity: judgement of criminal proceedings having a priority character, domestic and intra-familial violence related matters, juvenile criminal justice and educational assistance, etc.<sup>61</sup>

Access to courts is limited to the justiciable and auxiliaries of justice concerned by a case (interested parties, interveners, witnesses, technicians or interpreters, etc.). Persons authorised to enter must respect the measures of individual protection and physical distance.<sup>62</sup>

- **Court rulings**

Institutions, human rights groups and unions, such as the National Consultative Commission for Human Rights<sup>63</sup> and the Magistrates' union<sup>64</sup>, had criticised in April the provisions of the "Ordonnance"<sup>65</sup> n° 202-303 of 25 March providing for the automatic extension of provisional detentions.

By two judgements delivered on 26 May, the Court of Cassation removed the uncertainties about the implementation of Article 16 of this "Ordonnance", which "raised a major difficulty of interpretation, giving rise to divergent analysis between the different courts of first instance and appeal". Relying on Article 5 of the European Convention for the Protection of Human Rights, the highest court in the French judiciary affirms that the administrative extension of pre-trial detention cannot take place

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<sup>59</sup> France, National Consultative Commission on Human Rights, "State of health emergency and protection of workers", 14 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre6.pdf>

<sup>60</sup> France, Ministry of Justice, "Information Coronavirus COVID-19", 8 April 2020, available at: [www.justice.fr/info-coronavirus](http://www.justice.fr/info-coronavirus)

<sup>61</sup> France, Ministry of Justice, Circular of 5 May 2020, p. 24, available at: [http://circulaire.legifrance.gouv.fr/pdf/2020/05/cir\\_44967.pdf](http://circulaire.legifrance.gouv.fr/pdf/2020/05/cir_44967.pdf)

<sup>62</sup> France, Ministry of Justice, "Information Coronavirus COVID-19", 11 May 2020, available at: <https://www.justice.fr/info-covid-reprise>

<sup>63</sup> France, National Consultative Commission on Human Rights, "Another emergency: the restoration of normal functioning of the justice system", 28 April 2020, available at: [www.cncdh.fr/sites/default/files/avis\\_2020\\_-\\_4\\_-\\_200424\\_avis\\_urgence\\_fonctionnement\\_justice.pdf](http://www.cncdh.fr/sites/default/files/avis_2020_-_4_-_200424_avis_urgence_fonctionnement_justice.pdf)

<sup>64</sup> France, Magistrates' union, "Automatic extension of provisional detentions", 8 April 2020, available at: [www.syndicat-magistrature.org/IMG/pdf/cp\\_dp\\_art\\_16.pdf](http://www.syndicat-magistrature.org/IMG/pdf/cp_dp_art_16.pdf)

<sup>65</sup> According to Article 38 of the Constitution, the Parliament may authorise the Government to issue measures in one or several of the legislative areas. The measures issued by the Government (so-called 'Ordonnances') are to be approved by an act of Parliament ('lois de ratification').

without the intervention of the judicial judge, “within a short period of time from the expiry date of the title which has been automatically extended”. In the absence of such judicial review, the detained person must be immediately released.<sup>66</sup>

It has to be noted though that the Law of 11 May extending the state of health emergency stipulated that this automatic extension “is no longer applicable to titles of detention which expire on [11 May] and detentions can only be extended by a decision of the competent court taken after an adversarial debate”.<sup>67</sup>

- **National Court of Asylum**

The deadline for asylum seekers to challenge a decision of the French Office for the Protection of Refugees and Stateless Persons (the administrative authority responsible for examining asylum applications) was suspended to allow all deadlines for appeal that were supposed to expire between 12 March and 23 May to actually start running on 24 May.<sup>68</sup> According to an “Ordonnance” adopted on 13 May due to the sanitary crisis, all hearings in second instance will be held by a single judge. The president of the National Court of Asylum can authorise a magistrate sitting as a single judge to hold a hearing by videoconference.<sup>69</sup> The judge ruling alone retains the power to postpone the judgment of the case to be heard before a panel of judges in the event of serious difficulty.<sup>70</sup>

Ten associations, including ‘Elena’, ‘Cimade’, ‘Ligue des droits de l’homme’ and the association ‘Avocats pour la défense des droits des étrangers’, which criticise this measure, filed an appeal before the Council of State to suspend the new rules.<sup>71</sup>

## **1.2.5 Freedom of movement**

- **Border controls**

External borders remained closed in a bid to contain the coronavirus epidemic during May. According to a press release, internal borders are not closed but are subject to coordinated controls with other “partner countries” until 15 June. To facilitate traffic flow until this date, “permanent static controls give way to punctual dynamic controls”.<sup>72</sup>

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<sup>66</sup> France, Court of Cassation, Decisions n° 974 and n° 977, 26 May 2020, available at: [https://www.courdecassation.fr/jurisprudence\\_2/chambre\\_criminelle\\_578/974\\_26\\_44871.html](https://www.courdecassation.fr/jurisprudence_2/chambre_criminelle_578/974_26_44871.html)  
[https://www.courdecassation.fr/jurisprudence\\_2/chambre\\_criminelle\\_578/977\\_26\\_44872.html](https://www.courdecassation.fr/jurisprudence_2/chambre_criminelle_578/977_26_44872.html)

<sup>67</sup> France, Law n° 2020-546 of 11 May 2020 extending the state of health emergency and supplementing its provisions, art. 1, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041865244&dateTexte=20200519>

<sup>68</sup> France, National Court of Asylum, “State of health emergency: adaptation of the procedure rules before the Court”, 19 May 2020, available at: <http://www.cnda.fr/La-CNDA/Actualites/Etat-d-urgence-sanitaire-adaptation-des-regles-de-procedure-devant-la-Cour-complement>

<sup>69</sup> France, “Ordonnance” n° 2020-558 of 13 May 2020, available at: <https://www.legifrance.gouv.fr/eli/ordonnance/2020/5/13/JUSX2011552R/jo/texte?fbclid=IwAR1M44O8K47AzU7Jw7iLC5Y3Iv7BZHRXUquChBw-WJYssKDfAQenYxW8MuA>

<sup>70</sup> France, Article L. 731-2 of the Code of Entry and Residence of Foreigners and the Right of Asylum, available at: <https://www.legifrance.gouv.fr/affichCodeArticle.do?idArticle=LEGIARTI000037398448&cidTexte=LEGITEXT000006070158&dateTexte=20190101>

<sup>71</sup> France, Le Monde, “Right of asylum: the resumption of hearings with a single judge criticised”, 27 May 2020, available at: [https://www.lemonde.fr/societe/article/2020/05/27/droit-d-asile-la-reprise-des-audience-avec-un-juge-unique-critiquee\\_6040909\\_3224.html?fbclid=IwAR3u\\_gsx-yff4l5umWLPipLmzAGseP4FWizG\\_LM8Zufo8uM3SI\\_BmP1v1k8](https://www.lemonde.fr/societe/article/2020/05/27/droit-d-asile-la-reprise-des-audience-avec-un-juge-unique-critiquee_6040909_3224.html?fbclid=IwAR3u_gsx-yff4l5umWLPipLmzAGseP4FWizG_LM8Zufo8uM3SI_BmP1v1k8)

<sup>72</sup> France, Government, “Restrictions of movement and implementation of sanitary measures to borders”, 22 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/communiqué-restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires>

In particular, cooperation has been developed with Germany. In view of the reopening of borders from 15 June, new exemptions came into force for the entry to France (e.g. to exercise rights of custody and visitation of children, to visit a parent in a nursing home).<sup>73</sup>

- **Authorised trips to certain categories of people**

All French citizens may enter the French territory as well as citizens of the European Union and certain categories of third-country nationals, with specific exemptions, listed in compulsory certificate available on the website of the Ministry of the Interior whether they are coming from outside or inside the European space. As such, those who have their permanent residence in France or in another country of the European Union, holders of a valid French or European residence permit or long-stay visa if they come from a third country, diplomatic mission staff, healthcare workers supporting the fight against Covid-19, flight and cargo crews, foreign nationals ensuring the international carriage of goods, seamen. International transit of less than 24 hours with the travel document to the final destination is also authorised.<sup>74</sup>

The following categories can also enter France if they are coming from a country of the European Union: cross-border workers, European posted workers whose mission cannot be delayed, individuals able to justify custody rights, visit or accommodation of a child, of a dependent relative or of a child in a specialised medical institution, individuals attending school.<sup>75</sup>

France has opened its borders to farm harvest workers. On 12 May, the Government confirmed that those with a valid working contract will be allowed to enter the country to help French farmers. The permission applies to workers coming from inside the European Space.<sup>76</sup>

- **Requirements to enter the country**

People who travel to France must carry a travel certificate, which is a specific document certifying the reason for the journey. This travel certificate is available on the French Ministry of the Interior's website.<sup>77</sup> From 25 May 2020, travellers are also requested to fill out and carry with them a statement certifying they did not have any symptoms of a Covid-19 infection in the past 48 hours or have been in contact with a confirmed case of Covid-19 in the 14 days before their trip.<sup>78</sup>

Incoming travellers may face a two-week quarantine or isolation upon arrival, which is only mandatory for people with symptoms of COVID-19, in a bid to stop the spread of the coronavirus. According to the decree of 31<sup>st</sup> May, "the prefect with territorial jurisdiction is empowered to prescribe" these measures to:

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<sup>73</sup> France, Ministry of Interior, "Restrictions of movement to borders", 13 May 2020, available at: <https://www.interieur.gouv.fr/Actualites/Communiqués/Restrictions-de-circulation-aux-frontieres-pour-lutter-contre-le-Covid-19>

<sup>74</sup> France, Ministry of Interior, "Travel certificate", 22 May 2020, available at: <https://www.interieur.gouv.fr/Actualites/Infos-pratiques/Attestation-de-deplacement-et-de-voyage>

<sup>75</sup> France, Ministry of Interior, "Travel certificate", 22 May 2020, available at: <https://www.interieur.gouv.fr/Actualites/Infos-pratiques/Attestation-de-deplacement-et-de-voyage>; This measure also applies to people coming from "Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, United Kingdom and Holy See".

<sup>76</sup> France, Prime Minister, Circular of 12 May 2020, available at: [http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir\\_44968.pdf](http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir_44968.pdf)

France, Prime Minister, Circular of 20 May 2020, available at: [http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir\\_44977.pdf](http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir_44977.pdf)

<sup>77</sup> France, Government, "Restrictions of movement and implementation of sanitary measures to borders", 22 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/communiqué-restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires>

<sup>78</sup> France, Ministry of Interior, "Travel certificate", 22 May 2020, available at: <https://www.interieur.gouv.fr/Actualites/Infos-pratiques/Attestation-de-deplacement-et-de-voyage>



- 1/ persons who arrive in overseas territories “from the rest of the national territory or abroad”;
- 2/ persons who arrive in France with symptoms of Covid-19 infection.<sup>79</sup>

The Government specified that “this is a legal possibility, which however applies systematically in overseas territories where the health situation is specific, as well as for people arriving at our borders with symptoms of Covid-19 infection during health controls that will be put in place”.<sup>80</sup> The Law of 11 May and the decree of 31 May lay out the quarantine and isolation conditions. These measures may take place, at the preference of the persons who are subject to it, at their home or in suitable accommodation. Their initial duration may not exceed fourteen days. They may be renewed within the limit of a maximum duration of one month. Cases will be treated on an individual basis. Placement and maintenance in isolation are subject to medical confirmation of the infection of the person concerned. They are pronounced by the State representative in the department on the basis of a medical certificate. Those placed in quarantine or isolation are able to appeal to a judge at any time.<sup>81</sup>

In addition to this measure, the Government set up, from 25 May, a voluntary two-week quarantine scheme:

- Travelers coming from outside the European space will be invited to carry out a 2-week quarantine at home, or in a dedicated location provided if needed, upon arrival in France.
- Travelers coming from inside the European space (European Union member states, Andorra, Iceland, Liechtenstein, Monaco, Norway, San Marino, Switzerland, Holy See), will not be subject to this sanitary measure.
- Travelers arriving by air from Spain, regardless of their nationality, will be invited as of 25 May to carry out a voluntary quarantine, “since Spain implemented a quarantine system for travelers arriving by plane”. Similarly, travelers from the United Kingdom “will be invited to complete a voluntary quarantine” when the British two-week quarantine comes into effect.

On arrival, persons will be provided with information on the conditions under which voluntary quarantine can be carried out at the residence of their choice or in an adapted accommodation structure. The implementation of this health precaution relies on “civility and on the sense of responsibility of travelers”.<sup>82</sup>

The following persons will be exempt from the voluntary quarantine system, unless they show symptoms:

- people in transit to another country;
- crew members and persons operating cargo flights;
- persons who ensure the international transport of goods;
- drivers and team members of buses and trains;
- crew members and persons working on commercial and fishing vessels;
- foreign health professionals contributing to the fight against Covid-19;
- staff of diplomatic and consular missions, as well as international organisations with their headquarters or an office in France, as well as their spouses and children;

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<sup>79</sup> France, Decree n° 2020-663, of 31 May 2020, available at:

[www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605](http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041939818&dateTexte=20200605)

<sup>80</sup> France, Government, “Restrictions of movement and implementation of sanitary measures to borders”, 22 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/communiqué-restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires>

<sup>81</sup> France, Law n° 2020-546 of 11 May 2020 extending the state of health emergency and supplementing its provisions, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041865244&dateTexte=20200519>

<sup>82</sup> France, Government, “Restrictions of movement and implementation of sanitary measures to borders”, 22 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/communiqué-restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires>



- staff of the French and foreign internal security or defence forces returning from their mission, or on mission, other State agents posted abroad or returning from a mission as well as their spouses and children;
- cross-border workers;
- people who have a compelling family reason;
- persons admitted to enter the territory for economic reasons if their stay is less than 5 days.<sup>83</sup>

Seasonal workers whose stay in the national territory exceeds 48 hours will be submitted to a voluntary two-week quarantine or to any other measure “under the responsibility of their employer as part of the prevention of professional risks”. For posted workers, “these measures must be implemented in their country of origin”.<sup>84</sup>

- **Situation of asylum seekers**

On 17 March 2020, the national authorities decided to limit the registration of asylum applications to cases related to a particular emergency or reflecting a specific vulnerability. In May, the Ministry of Interior, announced the resumption of registrations of asylum requests.<sup>85</sup> As of May 11<sup>th</sup>, this resumption of service was effective on the whole French territory. In addition, there is a gradual resumption of the procedure for examining applications for asylum by the French Office for the Protection of Refugees and Stateless Persons (OFPRA) as of 11 May.<sup>86</sup>

## 1.3 Impact of measures on particular groups

### 1.3.1 Homeless people

The sanitary crisis affects several fundamental rights of homeless people.

- **Housing**

Since the start of the epidemic, French authorities have taken measures to provide homeless people with adequate emergency housing. According to the Ministry of Territorial Cohesion and Relations with Local Authorities, 178,500 accommodation places were open for this purpose on 4 May, while the number of hotel places reached 11,400. In total, the state released 65 million euros in funding to support homeless people.<sup>87</sup>

The period of the ‘winter protection break’ is fixed each year from 1 November to 31 March: it means that during this period, public forces cannot carry out evictions. In the face of the spread of Covid-19,

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<sup>83</sup> France, Government, “Restrictions of movement and implementation of sanitary measures to borders”, 22 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/communiqué-restrictions-de-circulation-et-mise-en-place-de-mesures-sanitaires>

<sup>84</sup> France, Prime Minister, Circular of 20 May 2020, available at: [http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir\\_44977.pdf](http://circulaires.legifrance.gouv.fr/pdf/2020/05/cir_44977.pdf)

<sup>85</sup> France, French Office for Immigration and Integration, available at: [https://twitter.com/OFIG\\_France?ref\\_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1257612066669694978&ref\\_url=https%3A%2F%2F](https://twitter.com/OFIG_France?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1257612066669694978&ref_url=https%3A%2F%2F)

<sup>86</sup> France, French Office for the Protection of Refugees and Stateless Persons, “Measures related to Covid-19”, 10 May 2020, available at: <https://www.ofpra.gouv.fr/fr/l-ofpra/actualites/mesures-liees-au-covid-19>

<sup>87</sup> France, Ministry of Territorial Cohesion and Relations with Local Authorities, “Update: more than 21,000 accommodation places now open for homeless people and 97 specialised accommodation sites available for covid-19 patients since the beginning of the sanitary crisis.”, 4 May 2020, available at: <https://www.cohesion-territoires.gouv.fr/actualisation-plus-de-21-000-places-dhebergement-desormais-ouvertes-pour-les-sans-domicile-fixe-et>

this break was initially extended until the 31 of May. On 8 May, the National Assembly voted a new postponement of the end of the 'winter protection break' until 10 July in order to take into account the extension of the state of health emergency.<sup>88</sup>

- **Access to food, water and hygiene**

A special service voucher system of distribution enabling homeless people to buy food and hygiene products during the health crisis was launched on 1<sup>st</sup> April. Since then, the vouchers, of €7 per day, are distributed by associations to homeless people and households. The overall budget for this specific measure is more than 15 million euros. The objective of the Ministry of Territorial Cohesion and Relations with Local Authorities is to be able to help more than 90,000 people.<sup>89</sup>

In a petition initiated on 18 May by 'Médecins du Monde', the NGO recognises that "an effort was made by the public authorities" regarding access to water and hygiene, during the coronavirus crisis. It stresses however that this effort "often remains insufficient, as in Mayotte and Guyana". The authorities must thereby "do everything to ensure access to water for all, regardless the circumstances".<sup>90</sup>

- **Tests for Covid-19 and face-masks**

According to the Government, a weekly lot of 5 million washable masks is intended for the most precarious citizens, via the communal social action centers (CCAS) and associative actors.<sup>91</sup>

For its part, the NGO 'Médecins du Monde' reminds that since 11 May masks are highly recommended or even mandatory in public spaces. Thus, it recommends free masks for people on the street, in slums or in camps as well as access to Covid-19 tests in case of symptoms. To achieve this goal, it suggests for example the strengthening of mobile tracking actions.<sup>92</sup>

Some regional health agencies (ARS) have set up at the local level, in collaboration with medical establishments, mobile testing centers intended specifically for the homeless.<sup>93</sup>

- **Access to healthcare**

The healthcare of "vulnerable persons is based, as for the general population, on ambulatory care for patients without signs of severity and not presenting certain comorbidities". Homeless people are

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<sup>88</sup> France, Ministry of Territorial Cohesion and Relations with Local Authorities, "Adoption by parliamentarians of the amendment extending the winter protection break until 10 July 2020", 9 May 2020, available at: <https://www.cohesion-territoires.gouv.fr/adoption-par-les-deputes-de-lamendement-reportant-la-prolongation-de-la-treuve-hivernale-jusquau-10>

<sup>89</sup> France, Ministry of Territorial Cohesion and Relations with Local Authorities, "Update: more than 21,000 accommodation places now open for homeless people and 97 specialised accommodation sites available for covid-19 patients since the beginning of the sanitary crisis.", 4 May 2020, available at: <https://www.cohesion-territoires.gouv.fr/actualisation-plus-de-21-000-places-dhebergement-desormais-ouvertes-pour-les-sans-domicile-fixe-et>

<sup>90</sup> France, 'Médecins du Monde', "A petition to remind the state about its duty of protection against coronavirus", 18 May 2020, available at: <https://www.medecinsdumonde.org/fr/actualites/nos-combats/2020/05/18/une-petition-pour-rappeler-letat-son-devoir-de-protection-face-au-coronavirus>

<sup>91</sup> France, Government, "General public masks", 27 April 2020, available at: <https://www.gouvernement.fr/info-coronavirus/masques-grand-public>

<sup>92</sup> France, 'Médecins du Monde', "A petition to remind the state about its duty of protection against coronavirus", 18 May 2020, available at: <https://www.medecinsdumonde.org/fr/actualites/nos-combats/2020/05/18/une-petition-pour-rappeler-letat-son-devoir-de-protection-face-au-coronavirus>

<sup>93</sup> France, France Bleu, "Bordeaux: a Covid screening center for homeless people in front of Saint-Jean station" ("Bordeaux : un centre de dépistage Covid pour les SDF devant la gare Saint-Jean"), 4 June 2020, available at: [www.francebleu.fr/infos/sante-sciences/bordeaux-un-centre-de-depistage-pour-les-sdf-devant-la-gare-saint-jean-1591282156](http://www.francebleu.fr/infos/sante-sciences/bordeaux-un-centre-de-depistage-pour-les-sdf-devant-la-gare-saint-jean-1591282156)

proposed to join a “covid specialised patient centre” depending on local admission procedures.<sup>94</sup> Specialised accommodation centers have been created for people on the street and for Covid-19 patients “not severely ill” who cannot be followed-up in their collective structure. The centers are intended to accommodate people whose state of health is sufficiently stabilised and who do not require hospitalisation. They are therefore accommodation centers for people in medical isolation.<sup>95</sup> According to the Ministry of Territorial Cohesion and Relations with Local Authorities, there are 97 specialised sites available.<sup>96</sup>

‘Médecins du Monde’ worries about access to healthcare and advocates for a care system “inclusive, united and sustainable”. The association emphasises that this crisis has exacerbated health inequalities and the profound dysfunctions of the health system in France. Therefore, ‘Médecins du Monde’<sup>97</sup> as well as ‘Ligue des Droits de l’Homme’<sup>98</sup> demand free access to healthcare for all.

### 1.3.2 Detainees

The situation in prisons and detention centres, where the risk of infection with Covid-19 is very high, remains a sensitive issue.

- **Reduction of detainees**

According to the Minister of Justice, average prison occupancy rate fell from 119 % on 16 March to 98 % on 14 May. On this date, French prisons counted nearly 13,000 fewer detainees than since the beginning of March. The Minister of Justice stated that she wants to avoid renewed prison overcrowding. To this end, she foresees an extension of the early release system of persons at the end of their sentences tested during the confinement period<sup>99</sup> (except for those convicted of acts of terrorism, and accused of domestic or family violence<sup>100</sup>).

In parallel, the Comptroller General of places of deprivation of liberty (an independent public institution in charge of the control of conditions for the management and conveying of people who are deprived of liberty) encourages to “continue the effort of prison deflation”. It suggests in particular combining punctual measures aimed at consolidating the initiated movement to reduce the prison

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<sup>94</sup> France, Ministry of health, “Recommendations concerning the activity of permanences for access to healthcare (PASS) and mobile teams precarious psychiatry (PPE) during the covid-19 epidemic”, 27 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/covid-19\\_fiche\\_pass\\_empp.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/covid-19_fiche_pass_empp.pdf)

<sup>95</sup> France, Directorate General of Social Cohesion, “Specifications of specialised accommodation centers for homeless not severely ill Covid-19 or coming from accommodation centers or suitable accommodation”, available at: <https://www.unafo.org/app/uploads/2020/03/CDCVFINALE-17.03.20.pdf>

<sup>96</sup> France, Ministry of Territorial Cohesion and Relations with Local Authorities, “Update: more than 21,000 accommodation places now open for homeless people and 97 specialised accommodation sites available for covid-19 patients since the beginning of the sanitary crisis.”, 4 May 2020, available at: <https://www.cohesion-territoires.gouv.fr/actualisation-plus-de-21-000-places-dhebergement-desormais-ouvertes-pour-les-sans-domicile-fixe-et>

<sup>97</sup> France, ‘Médecins du Monde’, “A petition to remind the state about its duty of protection against coronavirus”, 18 May 2020, available at: <https://www.medecinsdumonde.org/fr/actualites/nos-combats/2020/05/18/une-petition-pour-rappeler-letat-son-devoir-de-protection-face-au-coronavirus>

<sup>98</sup> France, ‘Ligue des Droits de l’Homme’, “Health alert for people in a precarious situation!”, 5 May 2020, available at: <https://www.ldh-france.org/alerte-sur-la-sante-des-personnes-en-situation-de-precarite/>

<sup>99</sup> France, Hearing of the Minister of Justice before the Commission of Laws of National Assembly, 14 May 2020, available at: [http://videos.assemblee-nationale.fr/video.9048903\\_5ebceb412cdb8](http://videos.assemblee-nationale.fr/video.9048903_5ebceb412cdb8)

<sup>100</sup> France, Government, “Presentation of the first 25 ordinances taken under emergency law to deal with the COVID-19 epidemic”, 25 March 2020, available at: [www.justice.gouv.fr/art\\_pix/DP\\_presentation\\_des\\_25\\_premieres\\_oronnances\\_25\\_03\\_2020.pdf](http://www.justice.gouv.fr/art_pix/DP_presentation_des_25_premieres_oronnances_25_03_2020.pdf)

population and long-term measures allowing sustainable respect of the reception capacity of penal establishments.<sup>101</sup>

- **Steps to lift confinement measures**

In French prisons, the deconfinement “will be very gradual” with the resumption of visits (‘parloirs’) for families and education for minors, as explained by the director of the Prison Administration in a press interview. From 11 May until 2 June, visits were limited to one person, for one hour maximum, once a week. Families and relatives who came to see detainees had to comply with health rules and sign a charter.<sup>102</sup> The administration recommended, “when possible”, spaced tables and plexiglass walls. “But this is not possible in certain establishments such as Ile-de-France, where the visiting rooms will remain in individual boxes”, he added.<sup>103</sup>

In total, 300 prison officers and 119 detainees had tested positive for the coronavirus on 14 May, according to the International Prison Observatory – French section (*Observatoire international des prisons-section française*). On this date, there had been 1 inmate death reported (at Fresnes) and 1 staff member death (at Orléans). Around 43 prisons had been infected.<sup>104</sup>

- **Detention conditions**

A new ruling regarding measures adopted for prison facilities in response to the Covid-19 crisis was given by the Council of State on 7 May, which specifically concerns the overseas collectivity of Martinique. On the one hand, the highest administrative court ordered the administration to provide a “non-sanitary protective mask” to the prisoners incarcerated in the local penitentiary centre of Ducos during their contacts with the outside. It noted that from 11 May the detainees will be the only ones not to have a protective mask during the “visits of lawyers, the disciplinary committee or the interviews with the penitentiary insertion and probation advisers”. On the other hand, it considered that given the measures implemented by the head of the prison center to limit the risks of spread of the virus the lack of distribution of protective masks to all detained persons does not reveal a failing of the administration.<sup>105</sup>

With regard to the tests for Covid-19, the judges observed that prisoners and prison staff are identified as priority people for testing. In the prison center of Ducos, the first symptomatic prisoner is immediately tested. In the event of a positive result, he is subject to medical confinement if he does not require hospitalisation, as are all of the people who have been in contact with him. The Council of State considered that this policy, which does not establish systematic tests for “all prisoners having been in direct contact with a person showing symptoms of Covid-19”, does not constitute an infringement on fundamental freedoms.<sup>106</sup>

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<sup>101</sup> France, Comptroller General of places of deprivation of liberty, “Continue the effort of deflation to put an end to overcrowding prisons”, 5 May 2020, available at: <https://www.cglpl.fr/2020/poursuivre-leffort-de-deflation-carcerale-pour-mettre-fin-a-la-surpopulation-en-prison/>

<sup>102</sup> France, Director of the Prison Administration, “Note to the prison administration services”, 6 May 2020, available at: <https://oip.org/wp-content/uploads/2020/05/minju-deconfinement-6mai2020.pdf>

<sup>103</sup> France, HuffPost, “Deconfinement: in prison, the visiting rooms will resume from Monday”, 8 May 2020, available at: [https://www.huffpost.fr/entry/deconfinement-les-parloirs-de-prisons-reprendront-a-partir-de-lundi-fr\\_5eb51764c5b610f3cd84f6e4?xtor=AL-32280680?xtor=AL-32280680](https://www.huffpost.fr/entry/deconfinement-les-parloirs-de-prisons-reprendront-a-partir-de-lundi-fr_5eb51764c5b610f3cd84f6e4?xtor=AL-32280680?xtor=AL-32280680)

<sup>104</sup> France, International Prison Observatory, French section (*Observatoire international des prisons-section française*), « Coronavirus in Prison - The Basics » (« *Coronavirus en Prison – L’essentiel* »), available at: <https://oip.org/covid19-en-prison-lessentiel/>

<sup>105</sup> France, Council of State, Decision n° 440151, 7 May 2020, available at: <https://www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/conseil-d-etat-7-mai-2020-prison-de-ducos-martinique>

<sup>106</sup> France, Council of State, Decision n° 440151, 7 May 2020, available at: <https://www.conseil-etat.fr/ressources/decisions-contentieuses/dernieres-decisions-importantes/conseil-d-etat-7-mai-2020-prison-de-ducos-martinique>

In a letter issued on 6 May, the National Consultative Commission on Human Rights stresses that prison overcrowding does not allow for the effective adoption of barrier measures, endangering both detainees and prison staff. For this reason, hygiene kits should be distributed and the offer of tests should be increased.<sup>107</sup> In the same vein, the NGOs 'Association des professionnels de santé exerçant en prison', 'Médecins du Monde' and 'Observatoire international des prisons-section française' warn about the "non-access to masks of detainees" and asks that the wearing of masks "be possible in the shared spaces of the prison for any detainee who wishes it".<sup>108</sup>

### 1.3.3 Women

The rights of women are particularly affected by the Covid-19 epidemic. The Ministry of the Interior explains that the specific context of confinement constitutes a breeding ground favourable to domestic and intra-family violence: crowded conditions, stress and anxiety can all contribute to it.<sup>109</sup> Moreover, women see their access to sexual and reproductive health services and products (SRH) limited (contraception, abortion, monitoring of pregnancy, screening for sexually transmitted infections or cervical cancer).<sup>110</sup>

- **Sexist and domestic violence**

- **Statistic figures**

The confinement has generated a significant increase in reports of domestic and intra-family violence. According to official figures published on 11 May:

- Domestic intervention within family environments have increased by 42% during the lockdown period, as compared to 2019.
  - The alert line (3919) has registered 13,210 calls from 23 March to 10 May.<sup>111</sup> While it normally records 200 calls per day on average, the alert line registered between 300 and 400 calls per day during the confinement.<sup>112</sup>
  - The proportion of chats concerning domestic and intra-family violence between 2019 and 2020 was multiplied by 17 during the lockdown period, as compared to the same period in 2019.<sup>113</sup>

On 21 May, the Secretary of State for Gender Equality provided further information to the press: the platform dedicated to domestic violence received during the eight weeks of confinement four times more reports than in a normal period. She added that "36% more complaints" had been recorded. However, the overall number of complaints have decreased by 18% during the lockdown period. As regards femicides, there is a slight decrease. The Secretary of State for Gender Equality indicated that

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<sup>107</sup> France, National Consultative Commission on Human Rights, "State of health emergency: emergency to ensure access to healthcare", 6 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre5.pdf>

<sup>108</sup> France, NGOs' Joint release, "Masks must be accessible to everyone, including detainees", 12 May 2020, available at: <https://oip.org/wp-content/uploads/2020/05/oip-cp-masques-covid-12052020.pdf>

<sup>109</sup> France, Ministry of Interior, "The Government fully mobilised against domestic and intra-family violence", 25 March 2020, available at: <https://www.interieur.gouv.fr/fr/Actualites/Communiqués/Le-Gouvernement-pleinement-mobilise-contre-les-violences-conjugales-et-intrafamiliales>

<sup>110</sup> France, National Consultative Commission on Human Rights, "State of health emergency: what continuity for access to health care and protection?", 21 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre7.pdf>

<sup>111</sup> France, Secretariat for Gender Equality, "Partner violence during the confinement", 14 May 2020, available at: <https://www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2020/05/Les-violences-conjugales-en-periode-de-confinement.pdf>

<sup>112</sup> France, National Federation of Women's Solidarity, "Violence against women: 3919 calls for donations", 4 May 2020, available at: <http://www.solidaritefemmes.org/actualites/violences-faites-aux-femmes-le-3919-lance-un-appel-aux-dons>

<sup>113</sup> France, Secretariat for Gender Equality, "Partner violence during the confinement", 14 May 2020, available at: <https://www.egalite-femmes-hommes.gouv.fr/wp-content/uploads/2020/05/Les-violences-conjugales-en-periode-de-confinement.pdf>

one woman is killed by a partner or former partner “every 4.2 or 4.4 days” during these eight weeks, instead of one every three days or two and a half days in normal times.<sup>114</sup>

- Measures in the battle against sexist and domestic violence

Cases of domestic violence continued to be handled by the courts during the lockdown. The Minister of Justice clearly recalled that immediate appearance hearings had to be maintained in order to allow the repression without delay of violent spouses. In addition, family judges have continued to issue protection orders to ensure victims receive prompt and effective protection.<sup>115</sup>

The Government has introduced multiple measures to allow people facing abuse to call for help during the lockdown. The reporting platform of violence ‘arreteonslesviolences.gouv.fr’ is operated 24 hours a day and 7 days a week by trained police and gendarmes. An alert number line and a SMS alert number are available for reporting domestic violence for all audiences since 1<sup>st</sup> April. Victims are able to call for help in pharmacies, where the alert is immediately given to the police.<sup>116</sup> The State has also financed pop-up counselling centres in grocery stores.<sup>117</sup> Funded by the State Secretariat for Gender Equality and managed by the ‘SOS solidarités group’, an orientation platform devoted to the eviction of the violent spouse was opened on 6 April.<sup>118</sup>

The Secretary for Gender Equality announced recently that these devices would be maintained after the lifting of the lockdown. She also indicated that she was working on “generalising the on-demand bus stop in the evening and at night”, as part of a plan to combat street harassment. She also referred to the development of a network of “safe places”, with the code “ask Angela” allowing victims to ask for help.<sup>119</sup>

During the lockdown period, many police services have witnessed some deficiencies in the access to emergency accommodation devices, in the absence of reachable contact persons. Some Departmental Directorates for Social Cohesion (decentralised services of the Government) have therefore set up a hotline to address this issue. The NGO ‘Ligue des Droits de l’Homme’ points out that certain recurring questions, in particular the basic conditions for sheltering the vulnerable, remain problematic. It mentions that most women’s shelters are full.<sup>120</sup>

- Actions of the associations

In conjunction with these measures, the associations have adapted their practices for the public and have made themselves available to better coordinate with local partners. As such these actions can be mentioned: reminders for victims whose hearings have been postponed, calls to victims whose

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<sup>114</sup> France, Le Point, “Confinement: domestic violence on the rise, reveals Schiappa”, 21 May 2020, available at: [https://www.lepoint.fr/societe/confinement-moins-de-feminicides-que-d-habitude-revele-schiappa-21-05-2020-2376427\\_23.php](https://www.lepoint.fr/societe/confinement-moins-de-feminicides-que-d-habitude-revele-schiappa-21-05-2020-2376427_23.php)

<sup>115</sup> France, Ministry of Interior, “The Government fully mobilised against domestic and intra-family violence”, 25 March 2020, available at: <https://www.interieur.gouv.fr/fr/Actualites/Communiqués/Le-Gouvernement-pleinement-mobilise-contre-les-violences-conjugales-et-intrafamiliales>

<sup>116</sup> France, Ministry of Interior, “Engagement of pharmacies to allow the reception of victims of domestic violence”, 27 March 2020, available at: <https://www.interieur.gouv.fr/fr/Actualites/Communiqués/Engagement-des-pharmacies-pour-permettre-l-accueil-des-victimes-de-violences-intrafamiliales>

<sup>117</sup> France, Ministry of Justice, “COVID 19: Adaptation of exceptional practices and systems”, 23 April 2020, available at: <http://www.justice.gouv.fr/haute-fonctionnaire-a-legalite-femmes-hommes-12939/covid-19-adaptation-des-pratiques-et-dispositifs-exceptionnels-33079.html>

<sup>118</sup> France, Ministry of Justice, “COVID 19 and perpetrators of domestic violence: End cohabitation when it is dangerous”, 8 April 2020, available at: <http://www.justice.gouv.fr/haute-fonctionnaire-a-legalite-femmes-hommes-12939/covid-19-et-auteurs-de-violences-intrafamiliales--33058.html>

<sup>119</sup> France, Le Point, “Confinement: domestic violence on the rise, reveals Schiappa”, 21 May 2020, available at: [https://www.lepoint.fr/societe/confinement-moins-de-feminicides-que-d-habitude-revele-schiappa-21-05-2020-2376427\\_23.php](https://www.lepoint.fr/societe/confinement-moins-de-feminicides-que-d-habitude-revele-schiappa-21-05-2020-2376427_23.php)

<sup>120</sup> France, Ligue des Droits de l’Homme, “Sexist and intra-family violence during the confinement period”, 30 April 2020, available at: <https://www.ldh-france.org/violences-sexistes-et-intrafamiliales-a-lheure-du-confinement/>



spouses have been released, creation of night calls for domestic violence victims, proposals for radio programs dedicated to victims, direct links with medical offices, exchanges by SMS, distribution of essential kits for female victims and setting up specific services with the department, etc.<sup>121</sup>

In particular, a web-application was co-constructed with victims and experts that would allow victims to keep track of events, access reliable resources and securely store items that could facilitate a possible complaint and an investigation.<sup>122</sup>

- **Contraception and abortion**

Access to contraception and abortion has been made more difficult during the confinement period. Several structures had to reduce their consultation activities. Many women were unable to attend clinics because of fear of contamination or because they were confined with one or more people to whom they could not speak about their situation.<sup>123</sup> Fear of the police, isolation, guilt and disinformation through anti-abortion websites are also reasons that prevent access to care and services.<sup>124</sup>

In the face of this situation, some measures have been taken to promote access to drug-induced voluntary termination of pregnancy in the context of the Covid-19 epidemic: lengthening the period from 5 to 7 weeks (*i.e.* 9 weeks amenorrhoea),<sup>125</sup> promoting teleconsultation, and accompanying the patient through the delayed abortion.<sup>126</sup>

The organisation 'Family Planning' stresses though that these actions are not sufficient to solve all the difficulties generated by the confinement and calls for additional measures that need to be taken up:

- The lengthening of the period for carrying out an abortion up to 14 weeks of pregnancy. The co-chair of this association noted that "since the start of the health crisis, the national toll-free number, supported by Family Planning, has recorded an increase of 184% in requests for an abortion beyond 12 weeks of pregnancy".
- Simplified modalities of access to medical termination of pregnancy.<sup>127</sup>

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<sup>121</sup> France, Ministry of Justice, "COVID 19: Adaptation of exceptional practices and systems", 23 April 2020, available at: <http://www.justice.gouv.fr/haute-fonctionnaire-a-legalite-femmes-hommes-12939/covid-19-adaptation-des-pratiques-et-dispositifs-exceptionnels-33079.html>

<sup>122</sup> France, France Victims, "News: 2 months of victim assistance activity in the Covid-19 context", 17 May 2020, available at: <https://www.france-victimes.fr/index.php/categories-inavem/105-actualites>

<sup>123</sup> France, National Consultative Commission on Human Rights, "State of health emergency: what continuity for access to health care and protection?", 21 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre7.pdf>

<sup>124</sup> France, Planning familial, "The Government must take urgent measures to facilitate access to abortion", 13 May 2020, available at: <https://www.planning-familial.org/fr/avortement/le-gouvernement-doit-prendre-des-mesures-urgentes-pour-faciliter-lacces-lavortement>

<sup>125</sup> France, Decree of 14 April 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041798289&dateTexte=20200523>

<sup>126</sup> France, Ministry of Health, "Recommendations for the adaptation of the voluntary termination of pregnancy in the context of the covid-19 epidemic", 15 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/covid-19\\_fiche\\_ivg\\_150420\\_vf.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/covid-19_fiche_ivg_150420_vf.pdf)

<sup>127</sup> France, Planning familial, "The Government must take urgent measures to facilitate access to abortion", 13 May 2020, available at: <https://www.planning-familial.org/fr/avortement/le-gouvernement-doit-prendre-des-mesures-urgentes-pour-faciliter-lacces-lavortement>



- **Pregnancy monitoring**

Monitoring pregnancies also became more difficult for pregnant women. According to the instructions of the Ministry of Health the principal objective is to maintain appropriate care to prevent any risk for the mother and the child.<sup>128</sup>

The National Consultative Commission on Human Rights reminds however that it is recommended “to organise, for mother-child couples at low medical, mental and social risk, an early exit. [...] If possible when the newborn is 48 hours old newborn”. The independent body underlines thereby that such practices, particularly very early exits, risk endangering the physical and psychological well-being of women and their children.<sup>129</sup>

- **Inequalities at home and at work**

Confinement has also reinforced inequalities at home, according to the Secretary for Gender Equality. She said a study has been commissioned showing that “in 63% of families it was the woman who made all of the meals during the entire confinement”.<sup>130</sup>

Representing the majority of nurses, caregivers, cashiers and cleaning staff, women are also on the frontline in the fight against the disease. All these professions have been among the most mobilised since the beginning of the epidemic and without interruption during the lockdown.<sup>131</sup> On 8 May, the Secretary for Gender Equality presented 15 proposals to the President of the Republic and the Prime Minister in order to enhance these feminised professions. In the meantime, several petitions have been launched recommending an “upgrading of predominantly female jobs and careers”, or asking to recognise the time spent working to create fabric masks and blouses (“Bas les masques”).<sup>132</sup>

## **2 Impact on fundamental rights of older people**

### **2.1 Data/statistics**

In France, statistics related to Covid-19 cases are mainly produced by the National Public Health Agency (‘Santé publique France’), a public administrative establishment under the supervision of the Ministry of Health. This institution relies on a large network of actors: liberal doctors, hospital doctors, regional health agencies, scientific societies, etc. According to its assessment, as of 26 May the most

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<sup>128</sup> France, Ministry of Health, “Care except for Covid-19”, 8 April 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/soins-hors-covid-19.pdf>

<sup>129</sup> France, National Consultative Commission on Human Rights, “State of health emergency: what continuity for access to health care and protection?”, 21 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre7.pdf>

<sup>130</sup> France, France tv Info, “Deconfinement: Marlène Schiappa fears ‘a decompensation’ of violence against women”, 21 May 2020, available at: [https://www.francetvinfo.fr/sante/maladie/coronavirus/deconfinement-marlene-schiappa-craint-une-decompensation-des-violences-contre-les-femmes\\_3974417.html](https://www.francetvinfo.fr/sante/maladie/coronavirus/deconfinement-marlene-schiappa-craint-une-decompensation-des-violences-contre-les-femmes_3974417.html)

<sup>131</sup> France, National Consultative Commission on Human Rights, “State of health emergency: what continuity for access to health care and protection?”, 21 May 2020, available at: <https://www.cncdh.fr/sites/default/files/obsncndh.lettre7.pdf>

<sup>132</sup> France, L’Express, “Marlène Schiappa wants to put gender equality at the heart of the post-Covid-19 relaunch”, 12 May 2020, available at: [https://lexpansion.lexpress.fr/actualite-economique/marlene-schiappa-veut-mettre-l-egalite-femmes-hommes-au-coeur-de-la-reliance-post-covid-19\\_2125851.html](https://lexpansion.lexpress.fr/actualite-economique/marlene-schiappa-veut-mettre-l-egalite-femmes-hommes-au-coeur-de-la-reliance-post-covid-19_2125851.html)

seriously affected people by this epidemic are patients aged over 65 years. This category represents more than 92% of the deaths.<sup>133</sup>

On 18 April, the National Academy of Medicine (a legal entity in public law with special status, “placed under the protection of the President of the Republic”) announced that a third of Covid-19 patients are over 65, 25% between 65 and 74, and 8% over 75. This last age group represents 74% of deaths, due to co-morbidities and dependency.<sup>134</sup>

On 16 April, the High Council for Public Health (a French authority created by the Law of 9 August 2004 relating to public health policy and implemented in 2007) mentioned that 89% of the deceased were over 70 years old and 96% over 60 years old.<sup>135</sup>

### **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

n/a

- Recovered from COVID-19

n/a

- Died in relation to COVID-19

n/a

### **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

Between 1<sup>st</sup> March and 25<sup>th</sup> May, 64,989 cases of Covid-19 have been reported in the residential facilities for the elderly (EHPAD, senior residences, etc.). Among these, 33,646 cases have been confirmed and 8,327 hospitalised.<sup>136</sup>

- Recovered from COVID-19

n/a

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<sup>133</sup> France, National Public Health Agency, “COVID-19: epidemiological update of 29 May 2020”, p. 20, available at: <https://www.santepubliquefrance.fr/maladies-et-traumatismes/maladies-et-infections-respiratoires/infection-a-coronavirus/documents/bulletin-national/covid-19-point-epidemiologique-du-29-mai-2020>

<sup>134</sup> France, National Academy of Medicine, “Ageism and Intergenerational Tensions in the Covid-19 Period”, 18 April 2020, available at: <http://www.academie-medecine.fr/wp-content/uploads/2020/04/Ageism-and-Intergenerational-Tensions-in-the-Covid-19-Period.pdf>

<sup>135</sup> France, High Council for Public Health, “Update of the opinion on persons at risk of severe form of Covid-19 and the specific barrier measures for these audiences”, 20 April 2020, available at: <https://www.hcsp.fr/Explore.cgi/AvisRapportsDomaine?clefr=807>

<sup>136</sup> France, National Public Health Agency, “COVID-19: epidemiological update of 29 May 2020”, p. 8, available at: <https://www.santepubliquefrance.fr/maladies-et-traumatismes/maladies-et-infections-respiratoires/infection-a-coronavirus/documents/bulletin-national/covid-19-point-epidemiologique-du-29-mai-2020>

- Died in relation to COVID-19

Between 1<sup>st</sup> March and 25<sup>th</sup> May, 3,558 older people died in hospitals and 10,248 in institutional settings.<sup>137</sup>

### 2.1.3 Number and type of institutions affected

Residential facilities for the elderly such as Establishments for Dependent Senior Citizens (EHPAD), senior residences and autonomy residences have been affected.<sup>138</sup> According to the latest data, 55% of the 7,000 EHPAD were spared from the virus on 27 April, as stated by the National Union of private retirement homes (Synerpa) to the press.<sup>139</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?

The Director General of Health (DGS) reports daily the number of people who died from the disease. Until April 2, this assessment only took into account hospital deaths but since then it includes the elderly who succumbed to the disease in a residential facility for dependent elderly people or in a medico-social establishment.<sup>140</sup>

Some media outlets have reported errors and fluctuating lifts in the counts of deaths in residential facilities for elderly people. This may be caused by incorrect civil status registrations that can distort the official figures. Precisely, some municipalities count as “deaths at home”, those that actually occurred in retirement homes.<sup>141</sup>

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

- Isolation

Beyond the virus, the Covid-19 crisis has created complicated situations for the elderly. Seniors were massively isolated during the confinement period with sometimes dramatic consequences: melancholy, depression, domestic accidents. In this respect, a telephone survey was published on 6 May by the call platform ‘Ergocall’. The study was conducted with 2000 older people over 65 and focuses on the impact of this crisis on the isolation of the elderly.<sup>142</sup>

<sup>137</sup> France, National Public Health Agency, “COVID-19: epidemiological update of 29 May 2020”, p. 8, available at: <https://www.santepubliquefrance.fr/maladies-et-traumatismes/maladies-et-infections-respiratoires/infection-a-coronavirus/documents/bulletin-national/covid-19-point-epidemiologique-du-29-mai-2020>

<sup>138</sup> France, National Public Health Agency, “COVID-19: epidemiological update of 29 May 2020”, p. 8, available at: <https://www.santepubliquefrance.fr/maladies-et-traumatismes/maladies-et-infections-respiratoires/infection-a-coronavirus/documents/bulletin-national/covid-19-point-epidemiologique-du-29-mai-2020>

<sup>139</sup> France, Le Parisien, “Coronavirus: the heavy toll of Ehpads residents”, 27 April 2020, available at: <http://www.leparisien.fr/societe/coronavirus-le-lourd-tribut-des-residents-des-ehpad-27-04-2020-8306301.php>

<sup>140</sup> France, Le Monde, “Coronavirus: age, sex, department... the rise in French mortality in seven graphs”, 22 May 2020, available at: [https://www.lemonde.fr/les-decodeurs/article/2020/05/22/coronavirus-age-sexe-departement-la-hausse-de-la-mortalite-francaise-en-sept-graphiques\\_6040465\\_4355770.html](https://www.lemonde.fr/les-decodeurs/article/2020/05/22/coronavirus-age-sexe-departement-la-hausse-de-la-mortalite-francaise-en-sept-graphiques_6040465_4355770.html)

<sup>141</sup> France, Le Parisien, “Coronavirus: why these errors in the counts of deaths in Ehpads?”, 21 May 2020, available at: <http://www.leparisien.fr/societe/coronavirus-pourquoi-ces-erreurs-dans-les-decomptes-des-deces-en-ehpad-20-05-2020-8320674.php>

<sup>142</sup> France, Ergocall, “12,5 million seniors potentially in danger at home?”, 6 May 2020, available at: [http://www.datapressepremium.com/rmdiff/1338/2020-05\\_ERGOCALL\\_ObservatoireSenior14.pdf](http://www.datapressepremium.com/rmdiff/1338/2020-05_ERGOCALL_ObservatoireSenior14.pdf)

In France, 12.5 million older people live alone at home. The study points out that half of the most precarious elderly people have received fewer visits since March. Accustomed to receiving family or healthcare professionals, they are now even more isolated: 56% do not have help from home professionals and 34% have seen their interventions reduced or cancelled. This confinement hurts older people psychologically and emotionally: 56% of seniors say they are anxious.

In addition, home became a place of all risks. Between physical difficulties and loneliness leading to a decline in cognitive capacities, the risk of falls and domestic accidents is considerably increased:

- 59% of seniors have physical difficulties
- 44% of seniors find it difficult to access their housing
- 38% have fallen recently and 77% of them indicate that it happened in their home.<sup>143</sup>

- **Intergenerational tensions**

The French National Academy of Medicine issued on 18 April a press release entitled “Ageism and Intergenerational Tensions in the Covid-19 Period”. It explains that beyond statistical data, medicine provides a more comprehensive view of the ageing phenomenon. “Elderly people are not a homogeneous group. Age cannot be resumed only in the number of years. At the same age, today’s seniors are very different from their ancestors”. According to the Academy, the current epidemic context gives rise to “ageism”, defined as “an attitude of discrimination or segregation against the elderly” and provides a breeding ground for intergenerational tensions. It cites examples from Israel and the United Kingdom where decisions were taken imposing the separation of grandparents from their grandchildren or the containment of the elderly for 4 months.<sup>144</sup>

For these reasons, the National Academy of Medicine recommends:

- never to use the age criterion for the allocation or distribution of property and resources; if rationing of therapeutic means is necessary, the choice should be based on physiological, clinical and functional criteria in order to get the best results in the short and long term;
- to substitute the notion of ‘physical distancing’ for that of ‘social distancing’ in order to make it clearer that observing barrier gestures does not imply isolation from the world, but that it allows to continue to communicate in a different way;
- to pay special attention to the most vulnerable and functionally impaired older adults residing in long-stay institutions and to ensure that they continue to enjoy all their rights.<sup>145</sup>

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<sup>143</sup> France, Ergocall, “12,5 million seniors potentially in danger at home?”, 6 May 2020, available at: [http://www.datapressepremium.com/rmdiff/1338/2020-05\\_ERGOCALL\\_ObservatoireSenior14.pdf](http://www.datapressepremium.com/rmdiff/1338/2020-05_ERGOCALL_ObservatoireSenior14.pdf)

<sup>144</sup> France, National Academy of Medicine, “Ageism and Intergenerational Tensions in the Covid-19 Period”, 18 April 2020, available at: <http://www.academie-medecine.fr/wp-content/uploads/2020/04/Ageism-and-Intergenerational-Tensions-in-the-Covid-19-Period.pdf>

<sup>145</sup> France, National Academy of Medicine, “Ageism and Intergenerational Tensions in the Covid-19 Period”, 18 April 2020, available at: <http://www.academie-medecine.fr/wp-content/uploads/2020/04/Ageism-and-Intergenerational-Tensions-in-the-Covid-19-Period.pdf>

## 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

According to the High Council of Public Health, the list of people considered at risk of developing a serious form of Covid-19 includes people aged 65 and over (“even if people aged 50 to 65 need to be monitored more closely”).<sup>146</sup>

During the lockdown period, the Government issued several guidelines and protocols related to older people in residential care homes.

- On 20 March, it transmitted to the establishments housing elderly and disabled people a course of action.<sup>147</sup>
- On 21 March, a national strategy was developed consisting of ensuring the supply of masks available to some priority categories, including staff of the Establishments for Dependent Senior Citizens: “five surgical masks per bed or place and per week, with a target of 500,000 surgical masks per day”.<sup>148</sup>
- On 28 March, the Government published guidelines for the implementation of confinement measures for socio-medical establishments.<sup>149</sup>
- On 30 March, the Government, published a strategy “Care strategy for elderly in senior centers or at home”.<sup>150</sup>
- On 20 April, a national protocol was issued setting the conditions for resuming visits to relatives in Establishments for Dependent Senior Citizens, and in Long-Term Care Units.<sup>151</sup>

In view of the deconfinement, a document was published on 10 May focusing on the changes of the containment instructions applicable to establishments housing the elderly. New admissions to permanent and temporary accommodation establishments are authorised under certain conditions (e.g. in case of emergency, exit from hospital, resumption of the caregiver's professional activity, significant deterioration in autonomy). Temporary collective and individual outings remain suspended. Depending on the epidemic zone and the particular situation in which the establishment is located, the director, with the support of the analysis of the coordinating doctor and in application of the directives which may have been issued by the regional health agency (ARS), may put in place

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<sup>146</sup> France, High Council of Public Health, “Update of the opinion on persons at risk of severe form of Covid-19 and the specific barrier measures for these categories”, 20 April 2020, available at:

<https://www.hcsp.fr/explore.cgi/avisrapportsdomaine?clefr=807>

<sup>147</sup> France, Ministry of Health, “Information to employers and directors of establishments or services housing the elderly and disabled people”, 20 March 2020, available at:

[https://solidarites-sante.gouv.fr/IMG/pdf/employeurs\\_accueillant\\_des\\_personnes\\_agees\\_et\\_handicapees.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/employeurs_accueillant_des_personnes_agees_et_handicapees.pdf)

<sup>148</sup> France, Ministry of Health, “Speech by Olivier Veran, press conference on 21 March 2020”, 21 March 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/discours/article/discours-d-olivier-veran-conference-de-presse-du-21-mars-2020>

<sup>149</sup> France, Government, “Guidelines for the implementation of lockdown measures in medico-social establishments”, 28 March 2020, available at:

[https://solidarites-sante.gouv.fr/IMG/pdf/covid-19\\_stade3\\_lignes\\_directrices\\_confinement\\_esms\\_paph\\_28032020.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/covid-19_stade3_lignes_directrices_confinement_esms_paph_28032020.pdf)

<sup>150</sup> France, Ministry of Health, “Care strategy for elderly in senior centers or at home”, 30 March 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/strategie-prise-en-charge-personnes-agees-covid-19.pdf>

<sup>151</sup> France, Ministry of Health, “Publication of the updated protocol relating to confinement in medico-social establishments”, 20 April 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/publication-du-protocole-actualise-relatif-au-confinement-dans-les> ; “Protocol relating to the applicable rules on confinement in social and medico-social establishments and services and long-term care units”, 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soi\\_ns\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soi_ns_de_longue_duree.pdf)

collective activities, entertainment activities, meals in small groups. The national guidelines for family visits to establishments remain unchanged.<sup>152</sup>

- **In the community in general**

According to the Ministry of Health, the gradual deconfinement from 11 May applies to all, but populations most at risk (including people over 65 years old) are recommended “to be extremely vigilant, to continue physical distancing and rigorously apply barrier gestures”. The elderly are “invited to continue to limit their contacts and their outings, without obligation or need for certificate”. The Government stressed that the application of these measures was “not compulsory” and “appealed to individual responsibility”. This situation is expected to be reassessed on 2 June.<sup>153</sup>

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

There are no national guidelines or protocols on patient triage that apply age as the main and decisive criterion. In this respect, several associations insisted on not basing decisions only upon an age criterion. An operational multidisciplinary professional recommendation, developed under the responsibility of the French-speaking intensive care society (SRLF), the French society of geriatrics and gerontology (SFGG) and others, explained that age “is not a good criterion because of the risk of discrimination on this single ground and the great variability in health status for a given age”.<sup>154</sup> The National Council of the Order of Doctors (CNOM) stressed that “all patients with Covid-19, including those residing in EHPAD and other institutions for the care of vulnerable persons, must have the same access to healthcare”.<sup>155</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?**

On 6 April, the Minister of Health announced to the media the launch of a large coronavirus testing operation in residential facilities for the elderly. When a case is declared in an establishment, it is then necessary to test all the residents. He specified that “all residents and all staff from the appearance of the first confirmed case” will be tested.<sup>156</sup> The testing strategy plan is maintained after the lifting of the lockdown.<sup>157</sup>

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<sup>152</sup> France, Ministry of Health, “Establishments hosting elderly people: changes linked to deconfinement”, 10 May 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes\\_agees-covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes_agees-covid-19.pdf)

<sup>153</sup> France, Ministry of Health, “People at risk: Answers to your questions”, 20 May 2020, available at: <https://solidarites-sante.gouv.fr/soins-et-maladies/maladies/maladies-infectieuses/coronavirus/tout-savoir-sur-le-covid-19/article/personnes-a-risques-reponses-a-vos-questions>

<sup>154</sup> France, Operational multidisciplinary professional recommendation, “Ethical and strategic aspects of access to intensive care and other critical care in the context of COVID-19 pandemic”, 24 March 2020, available at: <https://urgences-serveur.fr/IMG/pdf/rpmo-ethique-rea-covid-19-vf-24mar20.pdf>

<sup>155</sup> France, National Council of the Order of Doctors, “Medical decisions in a context of health crisis and exception”, 6 April 2020, available at: <https://www.conseil-national.medecin.fr/publications/actualites/decisions-medicales-contexte-crise-sanitaire-dexception>

<sup>156</sup> France, Le Parisien, “Coronavirus: a ‘vast screening operation’ soon launched in Ehpad”, 6 April 2020, available at: <http://www.leparisien.fr/societe/coronavirus-une-vaste-operation-de-depistage-bientot-lancee-dans-les-ehpad-06-04-2020-8295234.php>

<sup>157</sup> France, Ministry of Health, “Establishments hosting elderly people: changes linked to deconfinement”, 10 May 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes\\_agees-covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes_agees-covid-19.pdf)

- **Data/statistics on testing & frequency of testing**

From 6 April to 10 May, 200,000 tests for Covid-19 were conducted in Establishments for Dependent Senior Citizens.<sup>158</sup> According to the Government's instructions, this testing strategy is implemented at the local level under the responsibility of regional health agencies, in collaboration with establishments for the elderly.<sup>159</sup>

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

All visits to Establishments for Dependent Senior Citizens were suspended on 11 March 2020. Since 19 April, the residents of these establishments can again receive visits from their relatives. However, visits are strictly supervised in accordance with the national protocol of 20 April.<sup>160</sup>

More precisely, priority should first be given to residents for whom confinement has a strong impact on physical and mental health. This prioritisation is carried out after consultation with the healthcare team and the coordinating doctors. Depending on the obligations and the situation of the establishment, these possibilities may be extended to all residents. Relatives of residents must complete "a written request for an appointment, which could usefully be provided electronically". A letter, SMS or email is then sent to the families, "defining the procedure, the conditions, the methodology, the day and the hour of the visit".<sup>161</sup>

The protocol details the visiting conditions:

- Relatives are given a visit duration of less than one hour, "adapted according to the resident's state of health, their wishes, the situation of the establishment and the needs in terms of organisation".
- A maximum of two people are allowed for a visit to communal areas and outdoors and a maximum of one person for room visits.
- Relatives must also sign "a charter of good conduct by which they agree to comply with the entire protocol and health measures".
- Barrier gestures and physical distance measures must be scrupulously respected. Visitors must wash their hands upon arrival, their temperature must be checked by the establishment "using a contactless thermometer" and they must state "that they have not taken within 12 hours antipyretic treatment (paracetamol, aspirin, etc.)".<sup>162</sup>

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<sup>158</sup> France, Ministry of Health, "Establishments hosting elderly people: changes linked to deconfinement", 10 May 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes\\_agees-covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/deconfinement-etablissements-hebergeant-personnes_agees-covid-19.pdf)

<sup>159</sup> France, Ministry of Health, Ministry of the Interior, Circular of 9 April 2020, available at: <https://www.presanse.fr/wp-content/uploads/2020/04/Instruction-dépistage-COVID-09042020-1.pdf>

<sup>160</sup> France, Ministry of Health, "Protocol relating to the applicable rules for the confinement in social and medico-social establishments and services and long-term care units", 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soins\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soins_de_longue_duree.pdf)

<sup>161</sup> France, Ministry of Health, "Protocol relating to the applicable rules for the confinement in social and medico-social establishments and services and long-term care units", 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soins\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soins_de_longue_duree.pdf)

<sup>162</sup> France, Ministry of Health, "Protocol relating to the applicable rules for the confinement in social and medico-social establishments and services and long-term care units", 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soins\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soins_de_longue_duree.pdf)



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

Several recommendations (non-mandatory) have been carried out for older people living in the community.

In its opinion on the progressive lockdown exit, the 'Scientific Council COVID-19' advises people aged 65 and over to respect "strict and voluntary confinement, which protects them from risks of contamination".<sup>163</sup> In its turn, the High Council of Public Health published an "opinion relating to persons at risk of a severe form of Covid-19 and specific barrier measures for these people" (including those aged 65 and over), in which it recommends avoiding contact with persons likely to contaminate them as much as possible. Travels in areas of high population density must be limited or organised to comply with physical distance measures. A form of voluntary confinement is therefore desirable.<sup>164</sup>

The High Council of Public Health also suggests that these people should wear a full-face mask at home in the presence of visitors as well as when they have to leave their homes for personal, medical or professional reasons. Regarding specifically home visits, the institution recommends the following measures:

- Limit visits to those strictly essential.
- Allow only one visitor per visit.
- Avoid visits by symptomatic people or children.
- Apply barrier gestures and physical distance.<sup>165</sup>

Within the framework of professional activities, the High Council of Public Health suggested that teleworking at home should be preferred. If physical presence at the workplace is necessary, these persons must benefit from an organisation aimed at respecting the physical distance of at least 1 metre in places such as offices, meeting rooms, and at limiting participation in gatherings or places at risk of virus transmission. The supply of disinfectant wipes for the disinfection of workspace surfaces (desk, chair armrests, computer and connectors, etc.) is recommended when arriving and leaving the worksite.<sup>166</sup>

Furthermore, the possibility for older people to contribute to communal activities is limited. Precisely, in the government's site related to voluntary activities ("jeuxaider"), it is indicated among the safety rules: "Aged 70 years or more or carrying a chronic disease, I only engage in remote missions, from my home".<sup>167</sup>

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

Since the beginning of the sanitary crisis, the Ministry of Health published a set of updated instructions intended to maintain a continuity of healthcare for older people, including for conditions unrelated to Covid-19.

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<sup>163</sup> France, Covid-19 Scientific Council, "Progressive exit of containment. Prerequisites and key measures", 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/avis\\_conseil\\_scientifique\\_20\\_avril\\_2020.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/avis_conseil_scientifique_20_avril_2020.pdf)

<sup>164</sup> France, High Council of Public Health, "Update of the opinion on persons at risk of severe form of Covid-19 and the specific barrier measures for these audiences", 20 April 2020, available at: <https://www.hcsp.fr/explore.cgi/avisrapportsdomaine?clefr=807>

<sup>165</sup> France, High Council of Public Health, "Update of the opinion on persons at risk of severe form of Covid-19 and the specific barrier measures for these audiences", p. 8, 20 April 2020, available at: <https://www.hcsp.fr/explore.cgi/avisrapportsdomaine?clefr=807>

<sup>166</sup> France, High Council of Public Health, "Update of the opinion on persons at risk of severe form of Covid-19 and the specific barrier measures for these audiences", p. 7, 20 April 2020, available at: <https://www.hcsp.fr/explore.cgi/avisrapportsdomaine?clefr=807>

<sup>167</sup> France, Covid-19 Civic Reserve, "Safety rules", available at: <https://covid19.reserve-civique.gouv.fr/regles-de-securite>

- **Older people living in the community**

- Telemedicine:

The possibility of carrying out teleconsultations by video or telephone, if necessary accompanied by a caregiver, is facilitated.<sup>168</sup> These consultations are covered 100% by compulsory health insurance until the end of the state of health emergency.<sup>169</sup> Tele-care is also possible and encouraged for physiotherapists, psychomotor therapists and occupational therapists.<sup>170</sup>

- Care in a medical office or health facility:

The Ministry indicated that it is “necessary” to maintain consultations and care in the community and in health establishments that could not be carried out by teleconsultation or could not be deferred. In particular, continuity of palliative care is ensured for non-Covid-19 patients via access to dedicated hospital teams or with the support of “mobile teams/expert teams in palliative care”.<sup>171</sup>

- Home hospitalisation:

The Ministry stressed that hospitalisation at home, which ensures the care of people who need continuity of care 24 hours a day, must be sought to avoid hospitalisations in healthcare establishments with accommodation.<sup>172</sup>

- **Older people living in institutional care settings**

- Telemedicine:

The use of teleconsultation is the preferred tool for the care of patients residing in establishments for older people.<sup>173</sup>

- Measures facilitating the intervention of health professionals:

The Government has taken a set of measures facilitating the intervention in Establishments for Dependent Senior Citizens of health professionals working outside hospitals, both in terms of organisation and pricing (possibility of price increases).<sup>174</sup> The use of home hospitalisation has also been simplified. In particular, a multidisciplinary medical team may intervene directly within institutional care settings to ensure palliative care.<sup>175</sup>

<sup>168</sup> France, Ministry of Health, “Care except for covid-19”, 8 April 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/soins-hors-covid-19.pdf>

<sup>169</sup> France, “Ordonnance” n° 2020-428 of 15 April 2020, art. 3, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041800927&categorieLien=id>

<sup>170</sup> France, Ministry of Health, “Management of elderly persons at home outside Ehpads in the context of the management of the covid-19 epidemic”, 20 April 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/fiche-strategie-pa-a-domicile.pdf>

<sup>171</sup> France, Ministry of Health, “Management of elderly persons at home outside Ehpads in the context of the management of the covid-19 epidemic”, 20 April 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/fiche-strategie-pa-a-domicile.pdf>

<sup>172</sup> France, Ministry of Health, “Management of elderly persons at home outside Ehpads in the context of the management of the covid-19 epidemic”, 20 April 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/fiche-strategie-pa-a-domicile.pdf>

<sup>173</sup> France, Ministry of Health, “Proposals for the support of ‘city health professionals’ in establishments hosting dependent elderly persons”, 27 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville\\_ehpad\\_covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville_ehpad_covid-19.pdf)

<sup>174</sup> France, Ministry of Health, “Proposals for the support of ‘city health professionals’ in establishments hosting dependent elderly persons”, 27 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville\\_ehpad\\_covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville_ehpad_covid-19.pdf)

<sup>175</sup> France, Ministry of Health, “Strategy for the care of elderly persons in establishments and at home in the context of the management of the covid-19 epidemic”, 30 March 2020, available at: <https://solidarites-sante.gouv.fr/IMG/pdf/strategie-priise-en-charge-personnes-agees-covid-19.pdf>

In addition, the Government called on regional health agencies (ARS) to ensure the capacity of institutional care settings to continue their activity.<sup>176</sup> A decree of 26 March 2020 offers the possibility for the directors of regional health agencies to request the requisition of health personnel (doctors, nurses, students in health).<sup>177</sup>

## 2.2.7 Support measures and promising practices targeting older people

- **Social/psychological support**

In order to break the isolation of older people, the Health Ministry reinforced its actions with the establishment of a national toll-free number which answers everyone's questions and supported the launch of a "Red Cross in your home" helpline for vulnerable or isolated people. This device offers a listening and psychological support, especially for the elderly.<sup>178</sup>

The Government also initiated a platform whose purpose is to identify all of the actions and tools that are available throughout the country to help fight the isolation of the elderly. Professionals of old age, citizens and associations, older people and caregivers can find resources to support these people. It provides in particular resources for the essential needs of the elderly: eat; take care of oneself; be informed; guard against scams; talk with others; go out and maintain physical activity; busy oneself and get cultivated; organise daily life; maintain symbolic or spiritual rituals.<sup>179</sup>

The National Gendarmerie led the operation #ReplyPresent which consisted *inter alia* of watching over the elderly. Senior tranquillity operations allow keeping in touch with elders, to answer their questions, but also to reassure them. The gendarmes carry out these missions in close collaboration with the local communities and the municipal police, who have a detailed knowledge of their population.<sup>180</sup>

- **Access to goods and services**

The Government launched an online service to identify volunteers wanting to help the elderly, the isolated or the destitute, which offers *inter alia* food and emergency aid.<sup>181</sup> Moreover, the NGO 'Croix rouge' supported by the Health Ministry, and other applications of local assistance ('Indigo' and 'Courseur') provide the possibility to do shopping for the elderly.<sup>182</sup>

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<sup>176</sup> France, Ministry of Health, "Proposals for the support of 'city health professionals' in establishments hosting dependent elderly persons", 27 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville\\_ehpad\\_covid-19.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/fiche-appui-ps-ville_ehpad_covid-19.pdf)

<sup>177</sup> France, Decree n° 2020-337 of 26 March 2020, available at:

<https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041759437&categorieLien=id>

<sup>178</sup> France, Ministry of Health, "The Ministry of Solidarity and Health strengthens the fight against the isolation of the elderly", 6 May 2020, available at: <https://solidarites-sante.gouv.fr/actualites/presse/communiqués-de-presse/article/le-ministère-des-solidarités-et-de-la-santé-renforce-la-lutte-contre-l>

<sup>179</sup> France, Ministry of Health, "Breaking the isolation of the elderly", available at: <https://solidarites-sante.gouv.fr/grands-dossiers/rompre-isolement-aines/>

<sup>180</sup> France, National Gendarmerie, "Responding during the crisis", 24 April 2020, available at: <https://www.gendinfo.fr/actualites/2020/repondre-present-pendant-la-crise>

<sup>181</sup> France, Government, "In the face of the Covid-19 epidemic the Government calls for the mobilisation of general solidarity", 22 March 2020, available at: <https://covid19.reserve-civique.gouv.fr>

<sup>182</sup> France, Ministry of Health, "Resources for 10 essential needs of the elderly and their caregivers", 6 May 2020, available at: <https://solidarites-sante.gouv.fr/grands-dossiers/rompre-isolement-aines/personnes-agees-et-leurs-aidants/article/des-ressources-pour-les-10-besoins-essentiels-des-personnes-agees-et-de-leurs>

- **Access to digital tools and technology**

The national protocol of 20 April pointed out that “initiatives to keep a precious link with the outside should be maintained”: phones, tablets and all videoconferencing devices for virtual reunion, deployment of multiple digital tools.<sup>183</sup>

The report submitted by Jérôme Guedj (a French politician) at the request of the Minister of Solidarity and Health notes that many residential facilities for the elderly have deployed efforts to use Skype calls. The application ‘Famalink’ lends connected executives to these establishments to send photos to their relatives, while ‘Facilotab’ encourages the use of tablets by beginners and offers a free subscription for a month. It also mentions that establishments are equipped with tablets to help residents watch films and look at photos.<sup>184</sup>

- **Access to paid sick leave and partial activity scheme**

Vulnerable people (including persons over 70 years old<sup>185</sup>) or anyone living with them and who cannot work remotely could request a paid sick leave from 6 April to 30 April. This benefit could last 15 days, was renewable in the event of prolongation of confinement, and had to be requested from a doctor.<sup>186</sup>

According to the amending finance Law of 25 April 2020, employees deemed vulnerable, as well as people living with them, switched to a partial activity scheme as of 1 May.<sup>187</sup> They can now receive around 70% of their gross salary (84% of the net salary, 100% for the minimum wage). In application of this text, the decree of 5 May defines the criteria for identifying vulnerable employees at risk of developing a serious form of infection with the SARS-CoV-2 virus. People over 65 years old are included.<sup>188</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

France’s Health Minister announced on 19 April the resumption of “visiting rights for families” and specified that this decision was taken after consultation with “scientific societies” and “representatives of organisations in the establishments for the elderly”.<sup>189</sup> The national protocol of 20 April, setting the security conditions under which the containment of residents can be relaxed, is based on the recommendations made by the National Consultative Ethics Committee, and Jérôme Guedj. It also took into consideration the recommendations made by the French Society of Geriatrics and

<sup>183</sup> France, Ministry of Health, “Protocol relating to the applicable rules for the confinement in social and medico-social establishments and services and long-term care units”, 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soins\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soins_de_longue_duree.pdf)

<sup>184</sup> France, Ministry of Health, “Fight against the isolation of the elderly and fragile isolated persons during confinement”, 5 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/rapport\\_no1\\_j.\\_guedj\\_-\\_05042020.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/rapport_no1_j._guedj_-_05042020.pdf)

<sup>185</sup> France, Ministry of Health, “Coronavirus: who are the fragile people?”, 13 March 2020, available at: <https://solidarites-sante.gouv.fr/actualites/actualites-du-ministere/article/coronavirus-qui-sont-les-personnes-fragiles>

<sup>186</sup> France, Health Insurance, available at: <https://www.ameli.fr/assure/actualites/covid-19-les-proches-dune-personne-vulnerable-peuvent-beneficier-dun-arret>

<sup>187</sup> France, Law n° 2020-473 of 25 April 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041820860&categorieLien=id>

<sup>188</sup> France, Decree n° 2020-521 of 5 May 2020, available at: <https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000041849680&categorieLien=id>

<sup>189</sup> France, Le Monde, “Visits in Ehpads, masks, tests... The main government announcements on deconfinement”, 19 April 2020, available at: [https://www.lemonde.fr/societe/article/2020/04/19/visites-en-ehpad-masques-tests-les-principales-annonces-du-gouvernement-sur-le-deconfinement\\_6037109\\_3224.html](https://www.lemonde.fr/societe/article/2020/04/19/visites-en-ehpad-masques-tests-les-principales-annonces-du-gouvernement-sur-le-deconfinement_6037109_3224.html)

Gerontology of 11 April concerning the organisation and care of the units dedicated to the elderly with pervasive behavioural disorders and more generally the elderly affected by these disorders.<sup>190</sup>

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<sup>190</sup> France, Ministry of Health, “Protocol relating to the applicable rules for the confinement in social and medico-social establishments and services and long-term care units”, 20 April 2020, available at: [https://solidarites-sante.gouv.fr/IMG/pdf/protocole\\_relatif\\_aux\\_consignes\\_applicables\\_sur\\_le\\_confinement\\_dans\\_les\\_essms\\_et\\_unites\\_de\\_soins\\_de\\_longue\\_duree.pdf](https://solidarites-sante.gouv.fr/IMG/pdf/protocole_relatif_aux_consignes_applicables_sur_le_confinement_dans_les_essms_et_unites_de_soins_de_longue_duree.pdf)