

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

In **Luxembourg**, state of emergency was declared for an initial 10 days by Grand-ducal decree of 18 March 2020 introducing a series of measures to combat the Covid-19.¹ Then, in line with constitutional requirements of the country, this initial 10-day period was extended to a period of maximum 3 months by the act of 24 March 2020² adopted with a qualified majority of the parliament. Accordingly, state of emergency is still in force, entitling the government to make rapid and exceptional legislative decisions in the context of the coronavirus outbreak through regulations or decrees. Based on this prerogative, the government has adopted several measures to adjust the relevant legislative background to the crisis situation. These measures concern overwhelmingly the field of employment, but include measures in respect of several other areas of life, among others, budgetary issues, the operation of the justice system, healthcare and education.³

Among many other measures, on 25 March 2020 the government has adopted a grand-ducal regulation which suspended nearly all judicial deadlines during the state of emergency.⁴ On 27 March 2020 the government introduced a fast-track procedure to apply for short-time working schemes (*chômage partiel*) for companies whose business has been affected by the quarantine measures.⁵ Furthermore, on 3 April 2020 the government introduced a new paid leave for family support (*congé pour soutien familial*) in the context of taking care of an elderly or disabled family member during the crisis.⁶ As part of its “exit strategy”, the government adopted some measures allowing construction sites, renovation and maintenance work, as well as gardening businesses to continue as of 20 April 2020.⁷

1.2 Measures affecting the general population

1.2.1 Social distancing

The movement of people within the country is still prohibited, except for the most essential reasons, such as (i) acquisition of foodstuffs, pharmaceuticals and basic necessities, (ii) acquisition of agricultural products, (iii) travel to health facilities, (iv) travel to the workplace for the exercise of professional activity, (v) assistance and care for the elderly, minors, the dependent, the disabled and the particularly vulnerable, (vi) travel to social security organizations in case of emergency, (vii) travel, in case of emergency, to financial and insurance institutions as well as to postal services, (viii) travel to certain commercial and artisanal entities, (ix) travel due to a case of force majeure or a situation of necessity, and (x) outdoor leisure activities on an individual basis or limited to people who live together, without any gathering and subject to respecting a distance of two meters.⁸

¹ Luxembourg, [Grand-ducal decree of 18 March 2020 introducing a series of measures to combat the Covid-19](#) (*Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

² Luxembourg, [act of 24 March 2020 extending the state of crisis declared by the Grand-Ducal regulation of 18 March 2020 introducing a series of measures as part of the fight against Covid-19](#) (*Loi du 24 mars 2020 portant prorogation de l'état de crise déclaré par le règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

³ Luxembourg, RTL Today, [Government validates nine new Grand-ducal regulations](#), News press release on 04.04.2020.

⁴ Luxembourg, [Grand-ducal regulation of 25 March 2020 suspending the time limits in jurisdictional matters and temporarily adapting certain other procedural conditions](#) (*Règlement grand-ducal du 25 mars 2020 portant suspension des délais en matière juridictionnelle et adaptation temporaire de certaines autres modalités procédurales*).

⁵ Luxembourg, [government, summary of work of 27 March 2020](#) (*Conseil de gouvernement, résumé des travaux du 27 mars 2020*).

⁶ Luxembourg, [government, summary of work of 3 April 2020](#) (*Conseil de gouvernement, résumé des travaux du 3 avril 2020*).

⁷ Luxembourg, [government, summary of work of 17 April 2020](#) (*Conseil de gouvernement, résumé des travaux du 17 avril 2020*).

⁸ Luxembourg, Article 1 of [Grand-ducal decree of 18 March 2020 introducing a series of measures to combat the Covid-19](#) (*Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

The government announced the *#bleiftdoheim* (*#stayhome*) campaign, circulating flyers in six languages.⁹ Furthermore, the government communicated to the public some recommendations to respect social distancing within the shops to ensure that an interpersonal distance of 2 metres between each person present in the shop is respected. It was declared advisable to regulate the entry of customers and thus limit the number of people who can access the shops at the same time.¹⁰ As of 20 April 2020 wearing of face mask is compulsory in public transport and in places that are open to the public, as well as where the distance of 2 meters cannot be observed. Children under age 6 are not obliged to wear the mask.^{11 12}

Those who breach social distancing measures by gathering with other people who are not from their household can be fined in the amount of 145 euros.¹³ Business entities that are not deemed essential can be fined in an amount of 4,000 euros for a first breach and 8,000 euros for repeated ones.¹⁴

The Grand-Ducal Police has been regularly patrolling to enforce the confinement measures. As it has been confirmed by the police's spokesperson to the media, the police detected 1,200 breaches of the rules on group gatherings and restaurant closures from 18 March to 7 April 2020.¹⁵ Up until 20 April, police carried out an average of 1,000 checks per week and issued 1,600 fines as a consequence of breaching the quarantine measures. In the same period, another 60 shops and/or construction firms were fined for disrespecting the regulations.¹⁶

1.2.2 Education

Since the closing of schools, the Ministry of National Education, Children and Youth has set up a twofold support system for pupils, teachers and parents during the suspension of classes. On one hand, the National Education helpline (8002 9090) answers all questions related to the needs and concerns of children and young people: well-being, learning and guidance.¹⁷ The helpline can be contacted for educational or technical support, as well as for seeking advice or psychological support in situations of isolation or psychosocial problems. The helpline operates in 15 languages. On the other hand, *schouldoheim.lu* website aims to support home learning provided by the teachers. The platform offers a wide range of content, teaching resources and technological tools aimed at students of all class levels and teachers of all disciplines.¹⁸

In its communication on 27 March 2020 OGBL, the Independent Luxembourg Trade Union Confederation criticised the homeschooling programme of the government for escalating pre-existing inequalities in the society. To address the issue and to ensure continuity of education for children from socioeconomically disadvantaged backgrounds, the Ministry of National Education, Childhood and Youth published a document titled "A common effort to ensure the educational path of all

⁹ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Flyer #bleiftdoheim](#) (accessed on 26.04.2020.)

¹⁰ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Call to respect social distancing in shops open to the public](#) (01.04.2020).

¹¹ Luxembourg, [Grand-ducal regulation of 17 April 2020 amending the modified grand-ducal regulation of March 18, 2020 introducing a series of measures in the fight against Covid-19](#) (*Règlement grand-ducal du 17 avril 2020 portant modification du règlement grand-ducal modifié du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*)

¹² Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Not without my mask](#), accessed on 03.05.2020

¹³ Luxembourg, Article 6 of [Grand-ducal decree of 18 March 2020 introducing a series of measures to combat the Covid-19](#) (*Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

¹⁴ Luxembourg, Article 7 of [Grand-ducal decree of 18 March 2020 introducing a series of measures to combat the Covid-19](#) (*Règlement grand-ducal du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

¹⁵ Luxembourg, Delano.lu, [Social distancing breaches in 1st 4 weeks](#), (News press release on 08.04.2020.)

¹⁶ Luxembourg, RTL Today, [Police carried out more than 5,000 checks, issued 1,600 fines, in 5 weeks](#), (News press release on 24.04.2020).

¹⁷ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [A new home learning support system for students, parents and teachers](#), 20.03.2020

¹⁸ Luxembourg, website of the Ministry of National Education, Children and Youth, [Schouldoheim.lu: A new home learning aid for pupils, parents and teachers](#) (*Schouldoheim.lu: Un nouveau dispositif d'aide pour l'apprentissage à domicile destiné aux élèves, aux parents et aux enseignants*), 20.03.2020.

students".¹⁹ The document stresses that paying attention to fragile students who are unable to follow distance education and to students with special needs is of utmost importance. To prevent pupils from finding themselves isolated at home and not participating in distance learning, a systematic procedure is being put in place at national level which makes it possible to identify this target population and support the pupils concerned with a series of measures. Teachers are therefore called to report to their administration about all pupils who do not participate in distance education and who do not answer their calls. The principals will use all the resources at their disposal to reach out the pupils in question and their parents. This include support teams for pupils with special needs in basic education; psycho-social and school support services, as well as socio-educational services in the secondary education. The teams will be authorized to establish direct contact with the pupils while respecting the health instructions of the authorities.²⁰

In cases where it proves impossible to establish or maintain remote contact with these pupils or their parents, psycho-socio-educational professionals provide the pupils with assistance in the school premises starting at 20 April 2020. Once students return to class, additional resources will be allocated to schools to provide support to students who need it, during or outside school hours.²¹

As part of the deconfinement measures, as of 4 May 2020, students in the final year will resume classes, followed on 11 May 2020 by all other classes in secondary education and vocational trainings. From 25 May 2020 children will be able to attend elementary school and childcare. In terms of method, the government has opted for a two-week schedule where each class will be divided into two groups, both in basic and secondary education and in vocational training. Each group will have a week of lessons and learning in school, followed by a week of home study or in a reception structure.²² At the same time, however, critical voices fear that the proposed reopening will put the health of staff and children at risk.²³ Private school St. George cancelled the school year until September,²⁴ moreover, the European School Luxembourg also stopped the school year until September 2020, even for students needing final exams.²⁵

1.2.3 Work

In the sectors of essential activities, such as (i) public services necessary for the proper functioning of the state; (ii) the health and care sector, including hospital activities and medical analysis laboratories; (iii) the production and distribution of energy and petroleum products; (iv) the food sector; (v) water production and distribution; (vi) wastewater collection and treatment; (vii) removal and management of waste; (viii) public transports; (ix) transportation and shipment services; (x) exchange, payment and settlement systems for instruments; (xi) postal and telecommunications services; (x) security and cleaning services; (xi) essential activities related to the functioning of the financial and insurance sector,²⁶ the government has adopted several extraordinary measures in order to ensure the continuity of these essential services. Among others, the companies concerned may request the Ministry of Labour to increase the working hours of their employees to 12 hours a day / 60 hours a

¹⁹ Luxembourg, Ministry of National Education, Childhood and Youth (*Ministère de l'Éducation nationale, de l'Enfance et de la Jeunesse*), [A common effort to ensure the educational path of all students](#) (*Un effort commun pour assurer le parcours scolaire de tous les élèves*), 02.04.2020.

²⁰ Luxembourg, Ministry of National Education, Childhood and Youth (*Ministère de l'Éducation nationale, de l'Enfance et de la Jeunesse*), [A common effort to ensure the educational path of all students](#) (*Un effort commun pour assurer le parcours scolaire de tous les élèves*), 02.04.2020.

²¹ Luxembourg, website of the Ministry of National Education, Children and Youth, Interruption of activities in schools and childcare facilities : [Questions and Answers: What are the measures aimed at vulnerable or drop-out students who cannot participate in distance education](#), accessed on 29.04.2020.

²² Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [A gradual resumption of alternating courses and classes from 4 May 2020](#) (*Une reprise progressive des cours et des classes organisées en alternance à partir du 4 mai 2020*) 16.04.2020.

²³ Luxembourg, Delano.lu, [Unions propose changes to school reopening](#), News press release, on 27.04.2020.

²⁴ Luxembourg, Delano.lu, [Private school closes nursery classes until September](#), News press release on 30.04.2020.

²⁵ Luxembourg, RTL Today, [Final exams cancelled](#), News press release on 22.04.2020.

²⁶ Luxembourg, guichet.lu (official website of state administration), [Possibility of increasing working hours in essential activity sectors](#) (*Possibilité d'augmenter la durée du travail dans les secteurs d'activités essentielles*), 01.04.2020

week.²⁷ Moreover, during the crisis and because of the increased activity in these essential services, the companies concerned can refuse any leave request of their employees or cancel any leave already granted.²⁸

In March 2020 the Chamber of Commerce and four partners launched the JobSwitch platform. This online platform aimed at facilitating and accelerating the loan of staff between companies in sectors in immediate need of manpower (e.g. food trade, transport).²⁹ JobSwitch has finally achieved 537 matchings and thus facilitated the connection between unemployed, partial unemployed and self-employed staff with companies looking for people available quickly during the crisis.³⁰

To address financial difficulties of other businesses, on 27 March 2020 the government introduced a fast-track procedure for companies to apply for short-time working schemes (*chômage partiel*) for the situation of force majeure/coronavirus. The measure is available for all companies that have completely or partially gone out of business due to the state of emergency measures. During the period of short-time working schemes, the state pays a compensation allowance up to 80% of the salaries of the staff affected by short-time working.³¹ The company undertakes not to dismiss employees for economic reasons as long as the relevant government measures apply.³²

In early April, the government opened the possibility for freelance medical workers to apply for a fixed-term employment contract with the State, a measure aiming at preventing staff shortages in the medical sector. The contract would last until 29 May 2020 and requires candidates to be available at least 16 hours a week.³³

In addition to the already existing extra-ordinary leave for family reason to look after children under 13 years of age³⁴, on 3 April 2020 the government introduced a new paid leave for family support (*congé pour soutien familial*) in order to take care of an elderly or disabled family member during the crisis. Since many residential and day care centres have closed to combat the COVID-19 pandemic, these vulnerable people will stay in the daily care of their family member. The measure is retroactive to 18 March 2020 and applies to private sector employees and to self-employed.³⁵

On 8 April 2020 the government approved a regulation aimed at establishing an emergency compensation of 2,500 euros for self-employed. The granting of this support measure is subject to several conditions, among others, that the applicant must have encountered temporary financial difficulties due to the consequences of Covid-19.³⁶

On 17 April 2020 the government adopted some measures as part of its “exit strategy”, among others, allowing construction sites, renovation and maintenance work, as well as gardening businesses to continue as of 20 April 2020³⁷ upholding, however, physical distance as key requirement, along with

²⁷ Luxembourg, guichet.lu (official website of state administration), [Possibility of increasing working hours in essential activity sectors](#) (*Possibilité d'augmenter la durée du travail dans les secteurs d'activités essentielles*), 01.04.2020

²⁸ Luxembourg, guichet.lu (official website of state administration), [Possibility to refuse or cancel leave in essential sectors](#) (*Possibilité de refuser ou d'annuler les congés dans les secteurs essentiels*) 06.04.2020.

²⁹ Luxembourg, guichet.lu (official website of state administration), [Launch of the JobSwitch platform](#), 26.03.2020.

³⁰ Luxembourg, website of Chamber of Commerce Luxembourg, [JobSwitch - Cessation of activities on 30 April 2020](#) (*JobSwitch – cessation des activités au 30 avril 2020*),

³¹ Luxembourg, Chamber of Commerce, [New procedure for granting short-time work in cases of force majeure linked to the covid-19](#), 27.03.2020

³² Luxembourg, guichet.lu (official website of state administration), [Short-time working schemes due to force majeure related to the coronavirus crisis](#) (*Chômage partiel pour cas de force majeure liée à la crise du coronavirus*), (accessed on 24.04.2020).

³³ Luxembourg, guichet.lu (official website of state administration), [National health reserve - fixed-term contract for other health professionals exercising freelance activity](#) (*Réserve sanitaire nationale - CDD pour les autres professionnels de santé exerçant une activité libérale*) (accessed on 26.04.2020.)

³⁴ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), guichet.lu, [Leave for family reasons in connection with the coronavirus epidemic](#), 13.03.2020.

³⁵ Luxembourg, Luxembourgish government (*Gouvernement du Luxembourg*), [Covid-19: Introduction of leave for family support](#) (*Covid-19: Introduction d'un congé pour soutien familial*), (03.04.2020).

³⁶ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Emergency compensation of 2,500 euros for the self-employed](#), (Une indemnité d'urgence de 2.500 euros pour les indépendants), 08.04.2020.

³⁷ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [First phase of COVID-19 exit strategy](#), accessed on 10.05.2020.

wearing face masks.³⁸ As of 20 April 2020 wearing protective face mask is compulsory for the activities and services authorized under the law if an interpersonal distance of two meters cannot be respected, except for where more restrictive sectoral provisions apply.³⁹ For all relevant sectors the government published temporary health recommendations to follow.⁴⁰

1.2.4 Access to justice

Considering that the coronavirus outbreak has limited the citizens' access to courts, by Grand-ducal regulation of 25 March 2020⁴¹ the government has suspended nearly all applicable judicial deadlines.⁴² In respect of cases before the administrative courts, the government introduced an extension of the statutory time limit to file administrative complaints or appeal administrative rulings, except for in matters of detention regulated by immigration and international protection legislation. In civil and commercial law matters, several deadlines have been suspended as well, such as deadlines for pre-trial filings and appeals against judicial decisions, deadlines in bankruptcy procedures and successions. The requirement to file birth certificate within 5 days have been suspended as well, together with the suspension of evictions in the area of residential and commercial leases. Applications in criminal and correctional matters are filed solely in writing, through electronic means. Defendants, their lawyers and prosecutors do not appear in court.⁴³

In this period the judicial administration have operated with a reduced capacity and access to court buildings by the general population was restricted to the absolute necessary.⁴⁴ It was decided to limit public hearings to a strict minimum.⁴⁵ In criminal matters only trials involving a detained person and those needing to be released urgently for specific reasons remained in schedule. All other criminal, correctional and police matters were therefore cancelled. The continuity of the public prosecutors' work remained ensured while the chambers attached to the two district courts and the Court of Appeal operated on reduced service. In youth affairs, urgent matters were being dealt with. In civil and commercial matters, the admission and follow-up of urgent cases was guaranteed in all jurisdictions.⁴⁶ The courts, however, remained functional.⁴⁷

Inspired by events in some neighbouring countries, requests have been made by detainees for early release as a means of fighting the epidemic. In its communication, the Ministry of Justice highlighted

³⁸ Luxembourg, [government council, summary of work of 17 April 2020](#) (*Conseil de gouvernement, résumé des travaux du 17 avril 2020*).

³⁹ Luxembourg, [Grand-ducal regulation of 17 April 2020 amending the modified grand-ducal regulation of 18 March 2020 introducing a series of measures in the context of the fight against Covid-19](#) (*Règlement grand-ducal du 17 avril 2020 portant modification du règlement grand-ducal modifié du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

⁴⁰ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), Sante.lu, [Temporary health recommendations](#) (*Recommandations sanitaires temporaires*), accessed on 10.05.2020.

⁴¹ Luxembourg, [Grand-ducal regulation of 25 March 2020 suspending the time limits in jurisdictional matters and temporarily adapting certain other procedural conditions](#) (*Règlement grand-ducal du 25 mars 2020 portant suspension des délais en matière juridictionnelle et adaptation temporaire de certaines autres modalités procédurales*).

⁴² Luxembourg, La Justice (website of the Luxembourgish judiciary), [Press release of the Ministry of Justice relating to the suspension of time limits in jurisdictional matters](#) (*Communiqué du ministère de la justice en relation avec la suspension des délais en matière juridictionnelle*), (26.03.2020.).

⁴³ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Suspension of time-limits in jurisdictional matters: an urgent measure for citizens, businesses, the State, municipalities and legal persons under public law](#) (*La suspension des délais en matière juridictionnelle: une mesure urgente pour les citoyens, les entreprises, l'Etat, les communes et personnes morales de droit public*) (26.03.2020).

⁴⁴ Luxembourg, La Justice (website of the Luxembourgish judiciary), [Safeguarding justice rights in reduced justice service time - hearing plan, adaptation of certain time limits, telephone number and useful email addresses](#) (*Sauvegarder les droits des justiciables en temps de service réduit de la justice - plan des audiences, adaptation de certains délais, n° de téléphone et adresses courriel utiles*), (17.04.2020.).

⁴⁵ Luxembourg, the adaptation of the plan of the hearings of various jurisdictions was published in the ministerial decree of 6 April 2020, see [ministerial decree of 6 April 2020 amending the ministerial decree of 9 July 2019 fixing the hearings of the judicial courts during the judicial year 2019-2020](#) (*Arrêté ministériel du 6 avril 2020 modifiant l'arrêté ministériel du 9 juillet 2019 portant fixation des audiences des juridictions judiciaires pendant l'année judiciaire 2019-2020*).

⁴⁶ Luxembourg, La Justice (website of the Luxembourgish judiciary), [News release from the judicial administration - measures decided following the development of coronavirus](#) (*Communiqué de l'administration judiciaire – mesures décidées suite à l'évolution du coronavirus*), 13.03.2020.

⁴⁷ Luxembourg, [Statistics of the Constitutional Court and the Superior Court of Justice from 16.3.2020 to 24.04.2020](#) (*Statistiques de la Cour constitutionnelle et de la Cour supérieure de justice du 16.3.2020 au 24.04.2020*).

that this type of measure was envisaged as a reaction in the event of prison overcrowding. Since currently Luxembourg is not in this situation, there is no need to make adjustments to the legal regime for the execution of sentences at the moment.⁴⁸

1.2.5 Freedom of movement

Following France and Belgium, at last Germany has reached an agreement with Luxembourg in early April concerning cross-border commuters living in Germany and working in the Grand Duchy. Previously, these employees could work a maximum of 19 days per year from home before being taxed in their country of residence, but as a consequence of the COVID-19 crisis and the obvious need to allow people working from distance, the rules got relaxed. The measure is applied retroactively from 11 March 2020.^{49 50}

For cross-border employees working in the health and care sector and living in Germany, Belgium or the 'Grand Est' region of France, the government provides temporary free accommodation in hotels and holiday accommodations. The measure can be used by anyone working in any hospital within the Grand Duchy or in the field of care for the elderly or the disabled.⁵¹

On 19 March 2020 the government decided to grant an automatic extension of temporary stay for people currently staying in Luxembourg with travel documents (short and long stay visas, temporary residence permits, residence cards and residence permits) that are expiring during the established movement restrictions. The status of people who are in the process of applying for international protection is also automatically extended. All counters of the Directorate of Immigration stayed closed during the crisis, hence all communication is handled via post.⁵²

On 17 April 2020 the government adopted some amendments to the Grand-ducal decree of 18 March 2020, among others, to extend until 15 May 2020 the temporary restriction of third-country nationals to enter the territory of the Grand Duchy. The restriction does not apply to third country nationals holding long-term resident status or having the right to reside in accordance with EU laws.⁵³

1.3 Impact of measures on particular groups

Homeless people: During the first weeks of the crisis a civil society organisation,⁵⁴ as well as the government's consultative organ on human rights issues⁵⁵ raised attention to the importance of handling the situation of homeless people during the crisis with utmost care. The ministries in charge confirmed in their response to a parliamentary question that Wanteraktioun⁵⁶, a winter refuge for homeless people run by Caritas Luxembourg will stay open until the end of May 2020.⁵⁷ In order to

⁴⁸ Luxembourg, Ministry of Justice (*Ministère de la Justice*), [Communication from the Ministry of Justice relating to the incident at the Luxembourg Penitentiary Center](#) (*Communication du ministère de la Justice relative à l'incident survenu au Centre pénitentiaire de Luxembourg*) 26.03.2020.

⁴⁹ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Coronavirus - Information for companies](#) (*Coronavirus – Informations pour les entreprises*), accessed on 27.04.2020.

⁵⁰ Luxembourg, delano.lu, [30 March-5 April: latest COVID-19 Luxembourg news](#), Press news, accessed on 27.04.2020.

⁵¹ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Coronavirus - Information for companies](#) (*Coronavirus – Informations pour les entreprises*), accessed on 27.04.2020.

⁵² Luxembourg, Ministry of Foreign and European Affairs, [Communication for the attention of third country nationals concerning legal residence on the territory of the Grand Duchy of Luxembourg](#), accessed on 10.05.2020.

⁵³ Luxembourg, Article 8 of the [Grand-ducal regulation of 17 April 2020 amending the modified grand-ducal regulation of 18 March 2020 introducing a series of measures in the fight against Covid-19](#) (*Règlement grand-ducal du 17 avril 2020 portant modification du règlement grand-ducal modifié du 18 mars 2020 portant introduction d'une série de mesures dans le cadre de la lutte contre le Covid-19*).

⁵⁴ Luxembourg, Support Association for Immigrant Workers (*Association de Soutien aux Travailleurs Immigrés*), [COVID-19 demands unconditional solidarity!](#) (*Le COVID-19 exige une solidarité sans conditions !*) 26.03.2020.

⁵⁵ Luxembourg, The Human Rights Consultative Commission (*La Commission consultative des Droits de l'Homme*), [Open letter from the president of the CCDH to the Prime Minister](#) (*Lettre ouverte du président de la CCDH au Premier Ministre*) 27.03.2020.

⁵⁶ Luxembourg, website of Caritas Luxembourg, [Wanteraktioun](#), accessed on 26.04.2020.

⁵⁷ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2014: Situation of people in social distress and applicants for international protection staying in shelters, in the context of government precautions taken in the fight against the Covid-19 pandemic](#) (*Question parlementaire n° 2014: Situation des personnes en détresse sociale et demandeurs de protection internationale hébergés*)

limit the movement of people accommodated within Wanteraktioun, midday meals as well as other services are now offered on the spot. Homeless people can wash their clothes and take a shower at Wanteraktioun. The “Le Courage”⁵⁸ social café is open every day including public holidays with conditions of access having been adapted to the hygiene measures in force. Homeless people can also shower and wash their clothes there. Apart from Wanteraktioun, two other structures (Stëmm vun der Strooss⁵⁹ and Vollekskichen⁶⁰) continue to distribute meals to the most disadvantaged people. Caritas, however, emphasised in the media its imminent need for more resources, i.e. financial support and housing, stressing that the streetworkers’ job has become more intense and, at the same time, more difficult to organize due to the crisis.⁶¹

All structures for the homeless are provided with personal protective equipment (masks, gloves) for the use of the staff as well as disinfection products for the staff and for the people accommodated. The Scouts and other organisations have distributed face masks to the homeless.⁶² In addition, specific arrangements have been adapted to allow distance and proper hygiene recommended by the health authorities.⁶³ A three-phase procedure was put in place in the event of showing symptoms or contracting the disease by a person accommodated by Wanteraktioun. Accordingly, asymptomatic or cured people are accommodated in the main building (building A). When a person shows symptoms, he/she is transferred to building B of the site, pending the test result. In the event of a positive test, the person is transferred to a specialized home and will remain there while awaiting recovery.⁶⁴ So far 10 persons staying in Wanteraktioun have been diagnosed with COVID-19.⁶⁵

Older people: Concerning nursing homes, the Ministry of Health highlighted that these establishments were not medical institutions by definition, and thus the assistance of dedicated medical teams and prevention trainings had been provided to caretakers of these structures.⁶⁶ The Ministry of Health has been circulating and, from time to time, updating its recommendations “Prevention of sars-cov-2 infections in nursing homes for the elderly”.⁶⁷ Furthermore, on 27 April 2020 a document on the resumption of visits to nursing homes as part of progressive de-containment was published.⁶⁸ Before that date, visits were prohibited in general, and only the director of the structure could allow

dans des foyers, dans le contexte des précautions gouvernementales prises dans le cadre de la lutte contre la pandémie Covid-19.)

⁵⁸ Luxembourg, website of Caritas Luxembourg, [Le Courage](#), accessed on 26.04.2020.

⁵⁹ Luxembourg, website of [Stëmm vun der Strooss](#), accessed on 26.04.2020.

⁶⁰ Luxembourg, website of Comité national de défense sociale, [Vollekskichen](#), accessed on 26.04.2020.

⁶¹ Luxembourg, paperjam.lu, [The “very anxious” homeless people facing the Covid-19](#) (*Les sans-abri «très anxieux» face au Covid-19*), 27.04.2020.

⁶² Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2075: Protective masks for the homeless](#) (*Masques de protection pour les personnes sans-abri*), 27.04.2020.

⁶³ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2014: Situation of people in social distress and applicants for international protection staying in shelters, in the context of government precautions taken in the fight against the Covid-19 pandemic](#) (*Question parlementaire n° 2014: Situation des personnes en détresse sociale et demandeurs de protection internationale hébergés dans des foyers, dans le contexte des précautions gouvernementales prises dans le cadre de la lutte contre la pandémie Covid-19*).

⁶⁴ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2014: Situation of people in social distress and applicants for international protection staying in shelters, in the context of government precautions taken in the fight against the Covid-19 pandemic](#) (*Question parlementaire n° 2014: Situation des personnes en détresse sociale et demandeurs de protection internationale hébergés dans des foyers, dans le contexte des précautions gouvernementales prises dans le cadre de la lutte contre la pandémie Covid-19*).

⁶⁵ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2075: Protective masks for the homeless](#) (*Masques de protection pour les personnes sans-abri*), 27.04.2020.

⁶⁶ Luxembourg, Representation of the European Commission in Luxembourg, in cooperation with the EU Health Policy Platform of the European Commission, [Webinar: European Coordinated Response to Covid-19](#), 16.04.2020

⁶⁷ Luxembourg, Ministry of Health, Sante.lu, [Recommendations - Prevention of sars-cov-2 infections in nursing homes for the elderly](#) (*Recommandations - Prévention des infections à sars-cov-2 dans les structures d'hébergement pour personnes âgées*), updated on 28.04.2020.

⁶⁸ Luxembourg, Ministry of Health, Sante.lu, [Resumption of visits to structures for the elderly as part of progressive de-containment](#) (*Reprise des visites dans les structures pour personnes âgées dans le cadre du dé-confinement progressif*), 27.04.2020.

derogations from this prohibition, in exceptional cases for relatives and family members, provided that they do not show symptoms.⁶⁹

Until 21 April 2020, 99 residents and 18 different nursing homes for elderly people were infected with COVID-19 (infections that were still acute). Since the beginning of the review, 126 members of staff in 23 different nursing homes have been infected with the virus. 29 care home residents have died.⁷⁰ 34 nursing homes for the elderly (corresponding to 65.4%) had no case of COVID-19 among its inhabitants.⁷¹ Media sources, however, reported staff shortages in elderly care sector. Some teams have lost up to a fifth of their staff because of parental leave and illness. This, combined with an increased workload, pushed the department to appeal for volunteers through the govjobs.lu platform.⁷²

On 20 April 2020 the National health laboratory (*Laboratoire national de santé* or *LNS*) announced its national program to systematically test the elderly for COVID-19 in care homes all across Luxembourg.⁷³ The LNS, in collaboration with the Luxembourg Institute of Health (LIH), is undertaking systematic screening in nursing homes in the country in order to establish the precise inventory of the spread of the virus in this particularly vulnerable environment. 10,000 tests will be performed which involve both residents of nursing homes and nursing staff.⁷⁴

Detainees: As of 18 March 2020, all visits in prisons have been suspended, as well as leisure activities involving increased physical contact (work, workshops, sport). In the view of the new situation, to allow prisoners maintaining the contact with their families, skype meetings have been introduced.⁷⁵ The prison visits will remain suspended until further notice.⁷⁶

Shortly after the introduction of the abovementioned restrictions, on 25 March 2020 a violent incident took place at the Luxembourg Penitentiary Centre in Schrassig. The prison riot involved about 25 prisoners refusing to return to their cells in the evening. The incident was brought under control with the intervention of the special police.⁷⁷ The Ministry of Justice stressed that the incident was not closely related to the imposition of restrictions as a consequence of the COVID-19 crisis. Notwithstanding, media sources pointed out that the detainees had asked for protective equipment against the spread of the virus (masks, gloves, disinfectant).⁷⁸

Inspired by events in some neighbouring countries, requests have been made by detainees for early release as a means of fighting the epidemic. In its communication the Ministry of Justice highlighted that this type of measure was envisaged as a reaction in the event of prison overcrowding. Since

⁶⁹ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Measures taken by the Government on 12 March 2020 against the Coronavirus](#) (*Mesures prises par le Conseil de gouvernement du 12 mars 2020 face au Coronavirus*)

⁷⁰ Luxembourg, RTL Today, [Minister of Family Affairs Corinne Cahen held press conference at 4.30pm](#), News press release on 28.04.2020.

⁷¹ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Urgent parliamentary question n° 2068: Situation in care facilities for the elderly and nursing homes in the context of the coronavirus pandemic](#) (*Question urgente n° 2068 : Situation dans les structures d'accueil pour personnes âgées et maisons de soins dans le contexte de la pandémie du coronavirus*) 28.04.2020

⁷² Luxembourg, delano.lu, [Be creative: protecting the elderly during coronavirus](#), news press release on 22.04.2020.

⁷³ Luxembourg, website of national health laboratory (*Laboratoire national de santé*), [A joint action with the health inspection of the health department and the LIH](#) (*Une action conjointe avec l'Inspection Sanitaire de la Direction de la Santé et le LIH*) 20.04.2020.

⁷⁴ Luxembourg, website of national health laboratory (*Laboratoire national de santé*), [A joint action with the health inspection of the health department and the LIH](#) (*Une action conjointe avec l'Inspection Sanitaire de la Direction de la Santé et le LIH*) 20.04.2020.

⁷⁵ Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [COVID-19: Suspension of physical visits to the CPL](#) (*COVID-19: Suspension des visites physiques au CPL*), News press release 18.03.2020.

⁷⁶ Luxembourg, La Justice (website of the Luxembourgish judiciary), [Safeguarding justice rights in reduced justice service time - hearing plan, adaptation of certain time limits, telephone number and useful email addresses](#) (*Sauvegarder les droits des justiciables en temps de service réduit de la justice - plan des audiences, adaptation de certains délais, n° de téléphone et adresses courriel utiles*) (17.04.2020.)

⁷⁷ Luxembourg, Ministry of Justice (*Ministère de la Justice*) [Communication from the Ministry of Justice relating to the incident at the Luxembourg Penitentiary Center](#) (*Communication du ministère de la Justice relative à l'incident survenu au Centre pénitentiaire de Luxembourg*) 26.03.2020.

⁷⁸ Luxembourg, Luxembourg Wort, [Les détenus téléphoneront plus longtemps](#), News press release on 27.03.2020.

currently Luxembourg is not in this situation, there is no need to make adjustments to the legal regime for the execution of sentences at the moment.⁷⁹ Furthermore, the Ministry of Justice confirmed that the staff of Schrassig prison was provided with protective equipment by the Ministry of Health and that Schrassig prison will also engage in producing its own stock of face masks.⁸⁰

At the same time, in a radio interview the Ombudsperson warned about the first prisoner in Schrassig who became infected with COVID-19. He would not have been in contact with other prisoners, but only with two guards. Those would now be quarantined.⁸¹

2 Users' data - privacy and data protection

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

No geographic tracking or contact tracking application is used at the moment in Luxembourg, neither are there any arrangements between public authorities and other actors to allow collection, sharing and processing of user data for this purpose.⁸² To debate over the possibility of using phone applications to combat the spread of COVID-19, a motion was recently submitted to the parliament by a member of the opposition. The motion suggested that a possible tracing application should not be made mandatory and that no centralized recording of the data allowing identification of the people should take place.⁸³ Accordingly, on 28 April 2020 the joint Digitization and Justice committee has discussed the issue in detail in the parliament.⁸⁴

The government's approach is rather in favour of the analogue tracing methods which are to trace people without a phone app, by conventional means, such as the use of telephone calls to maintain contact and inform citizens. However, in view of the discussions that are underway, particularly in the neighbouring countries of Luxembourg, the government expressed its openness to discover more advanced solutions. It was declared particularly important to be prepared for a scenario where using such application would become a pre-condition to enter a neighbouring country.⁸⁵

⁷⁹ Luxembourg, Ministry of Justice (*Ministère de la Justice*), [Communication from the Ministry of Justice relating to the incident at the Luxembourg Penitentiary Center](#) (*Communication du ministère de la Justice relative à l'incident survenu au Centre pénitentiaire de Luxembourg*) 26.03.2020.

⁸⁰ Luxembourg, Ministry of Justice (*Ministère de la Justice*), [Communication from the Ministry of Justice relating to the incident at the Luxembourg Penitentiary Center](#) (*Communication du ministère de la Justice relative à l'incident survenu au Centre pénitentiaire de Luxembourg*) 26.03.2020.

⁸¹ Luxembourg, 100komma7.lu, ["The government must communicate transparently"](#) (*"D'Regierung muss transparent kommunizéieren"*), 21.04.2020.

⁸² Luxembourg, however, a teleconsultation platform has been put in place in Luxembourg in order to remotely monitor patients whose COVID-19 test has been positive. The online medical monitoring tool, "Maela" has been operational since 30 March 2020 and allows healthcare professionals to perform remote medical check-up of both those who are isolated at home and those who have just been discharged from the hospital. Once the patient is voluntarily enrolled in this remote monitoring system, he/she should respond to a short medical questionnaire every day for 2 weeks. The treatment carried out by a team of specialists makes it possible to identify a possible need for care or a worsening of the patient's situation. Until 10 April 2020, 422 patients had been supported in their recovery at home by "Maela". See the website of Agence eSanté Luxembourg, [Digitization at the service of the fight against the pandemic COVID-19](#) (*La digitalisation au service de la lutte contre la pandémie COVID-19*).

⁸³ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Motion of Mr. Sven Clement, Deputy: Invitation of the Government not to make use of a contact tracking application](#) (*Motion de Monsieur Sven Clement, Député: Invitation du Gouvernement à ne pas rendre l'utilisation d'une application de traçage des contacts obligatoire*), 17.04.2020.

⁸⁴ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [COVID-19: Towards a digital tracing?](#) (*COVID-19 : vers un traçage numérique?*), 28.04.2020.

⁸⁵ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [COVID-19: Towards a digital tracing?](#) (*COVID-19 : vers un traçage numérique?*), 28.04.2020.

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

For the time being, there is no legal framework in place. However, the Minister of Justice was called upon to develop a legislative proposal in due time, which seems all the more necessary since if a private application appeared, solid legal framework would prevent misuse, as the minister argued. The most essential objective would be to ensure that Luxembourgers are not prevented from traveling. The Prime Minister stressed that if a phone app became the norm, he would advocate for interoperability at European level.⁸⁶

2.3 Privacy and data protection concerns and possible solutions

During the discussion of the joint committee,⁸⁷ the MPs were rather opposed to the introduction of a mandatory application with centralized data storage, however, they also stressed the importance of being ready to adapt to the international situation. Some MPs categorically opposed to any use of the application, regardless of how the data was stored or anonymized. The risks of breaching medical confidentiality, violation of privacy, stigmatization of patients were raised, as well as the risk of creating a dangerous precedent considering that the COVID-19 crisis would not necessarily be the last crisis to be faced. Furthermore, the question of citizens' confidence in such applications was raised and the fact that for such a solution to be effective an adoption rate of around 60% of the population would be required. On the technical specificities of such an application, certain deputies argued for an "open source" solution. This means that the source code used for the application would be publicly available. On the one hand, this would allow transparency in the processing of data, and on the other hand, discourage private interests. The author of the motion emphasised that the involvement of private companies could not, however, be avoided, since the phone manufacturers are the only ones that can give special authorizations for an application to be permanently active on a phone, a *condition sine qua non* of the effectiveness of such a device.⁸⁸

The president of the Human Rights Consultative Commission has also expressed his concerns about a proposed tracking app. He emphasised, in particular, his concerns about the envisaged voluntary nature of such application, especially in situations where the application would be downloaded automatically at the occasion of an update or where an employer forces his/her employees to use it. He also expressed concerns about whether the collected data would be erased once the crisis is over, and if not, what data protection rules would apply to such pile of data.⁸⁹

2.4 Any other privacy and data protection concerns

N/A

⁸⁶ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [COVID-19: Towards a digital tracing?](#) (*COVID-19 : vers un traçage numérique?*), 28.04.2020.

⁸⁷ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [COVID-19: Towards a digital tracing?](#) (*COVID-19 : vers un traçage numérique?*), 28.04.2020.

⁸⁸ Luxembourg, Chamber of Deputies of Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [COVID-19: Towards a digital tracing?](#) (*COVID-19 : vers un traçage numérique?*), 28.04.2020.

⁸⁹ Luxembourg, Human Rights Consultative Commission, [An application to trace the virus responsible for COVID-19: a false "good idea"? Article by Gilbert Pregno, President of the CCDH](#) (*Une application pour tracer le virus responsable du COVID-19 : une fausse « bonne idée » ? Article de Gilbert Pregno, Président de la CCDH*) 28.04.2020.