

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Belgium

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1 Measures taken by government/public authorities impacting on specific freedoms

Please briefly describe the main developments, between 1 September – 31 October 2020, in the legal framework and related measures adopted in your country in response to the Coronavirus pandemic with respect to emergency laws/state of emergency, freedom of assembly and freedom of movement.

1.1 Emergency laws/states of emergency

Since March 2020, multiple Ministerial and Royal Decrees were enacted in Belgium to determine the measures that need to be followed to contain the spread of the new Coronavirus in the country.¹ As the number of new cases continued to increase throughout the whole reporting period, multiple measures were taken in these two months, gradually closing multiple sectors of the economy. During the month of October, the Brussels Government issued an order for closure of all bars for a period of 8 October 2020 to and including 9 November 2020.² Restaurants were excluded from this closure and could remain open as long as they fulfilled the minimum safety requirements. Bookstores with play areas and all other shops that sold drinks or foods, even if this was not their main business, were required to close no later than 22h00 as of 8 October 2020 and until 9 November 2020.

In October, the Federal Government also took a number of national measures, first on 8 October 2020, including for the horeca sector where, in addition to the minimum guidelines on distance and masks which had been previously introduced, it provided that bars should close no later than 23h00, and restaurants no later than 01h00.³ The measures were intended to apply between 9 October 2020 and 8 November 2020. However, in light of the continued surge in COVID-19 cases in Belgium, the federal government issued further measures on 18 October 2020,⁴ (as amended by Ministerial Order of 23 October 2020⁵ which replaced the Ministerial Order of 30 June 2020). It provided that teleworking

¹ Belgium, A full list of these all Decrees enacted until November 1st is available at: crisis centre, Coronavirus: answers to your questions ([Coronavirus : réponses à vos questions](#)) [last accessed 2 November 2020]

² Belgium, Decree of 7 October 2020 regarding the closure of bars and the establishment of emergency measures to limit the spread of the corona virus COVID-19 ([Besluit van 7 oktober 2020 van de Minister-President van het Brussels Hoofdstedelijk Gewest houdende sluiting van de bars en tot vaststelling van noodmaatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté du 7 octobre du Ministre-Président de la Région de Bruxelles-Capitale portant fermeture des bars et arrêtant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 8 October 2020 [last accessed on 20 October 2020]. The Decree was amended by [Decree of 12 October 2020](#) to harmonise the terminology used for 'bar' and 'restaurant' with the Ministerial Order of 8 October 2020 and to clarify what constitutes a 'meal'.

³ Belgium, Ministerial Decree of 8 October 2020 on amendment of Ministerial Order of 30 June 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit van 8 oktober 2020 houdende wijziging van het ministerieel besluit van 30 juni 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté ministériel du 8 octobre 2020 modifiant l'arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 8 October 2020 [last accessed on 20 October 2020].

⁴ Belgium, Ministerial Decree of 18 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit van 18 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté ministériel du 18 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 18 October 2020 [last accessed on 20 October 2020].

⁵ Belgium, Ministerial Decree of 23 October 2020 amending ministerial decree of 18 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit of 23 October 2020 houdende wijziging van het ministerieel besluit van 18 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté ministériel du 23 octobre 2020 modifiant l'arrêté ministériel](#)

became the norm where possible, bars and restaurants were to be closed, though offering take-away was permitted. Within limitations, cinemas, pools, casinos and gaming halls remained open. Accommodations (e.g. hotels, B&Bs and other holiday rentals) were allowed to remain open, including their restaurant and excluding their bar, though only for hotel guests, taking into account the necessary safety precautions.

On 26 October 2020, the Brussels Government took additional measures on top of the federal measures.⁶ This included a closure of all cultural institutions, including museums, and recreational locations, including casinos, betting offices and theme parks. Furthermore, all shops are required to close by 20h00, with the exception of take-away, which remains possible until 22h00. These additional measures are intended to apply until 19 November 2020.

On 27 October 2020, the Flemish Government also decided to take additional measures, including closure of all cultural institutions, including museums, and suspension of indoor activities such as indoor playgrounds, bowling alleys, cinemas, wellness centres and saunas, casinos and gaming halls. Moreover, pools and gyms were also ordered to close. The measures were originally intended to enter into force on Friday 30 October 2020, but following criticism on the delay in application of the new measures, the government decided to apply them as of 29 October 2020.⁷

In light of the stricter measures imposed on the regional level and the continued spread of the coronavirus, the Federal Government issued a new Ministerial Order on 28 October 2020 which replaced the Order of 18 October 2020.⁸ The new Ministerial Order is applicable from 29 October to 19 November 2020 and provides that:

- Teleworking is the norm where this is possible. Where teleworking is not possible, the government stresses the importance of social distancing and sanitary measures to the fullest extent possible.
- Bars and restaurants are closed, with the exception that offering food and drinks for take-away is permitted until 22h00 (alcoholic drinks may be offered for take-away until 20h00).
- All institutions belonging to the cultural, sports, recreation or event sectors are closed for the public, such as cinemas, pools, wellness centres, indoor playgrounds, bowling alleys, Christmas and other large markets. An exception was made for, among others, libraries, outdoor playgrounds, outdoor areas of zoos, nature parks, outdoor sporting areas, and small

du 18 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19), Published in the Belgian Official Gazette of 23 October 2020 [last accessed on 26 October 2020].

⁶ Belgium, Decree of 26 October 2020 of Prime Minister of the Brussels Government on additional measures to supplement those determined by the Minister of the Interior to limit the spread of the COVID-19 coronavirus ([Besluit van 26 October 2020 van de Minister-President van het Brussels Hoofdstedelijk Gewest tot bepaling van bijkomende maatregelen naast degene die bepaald zijn door de minister van Binnenlandse Zaken om de verspreiding van het coronavirus COVID-19 te beperken](#) / [Arrêté du 29 octobre 2020 du Ministre-Président de la Région de Bruxelles-Capitale arrêtant des mesures complémentaires à celles arrêtées par le ministre de l'Intérieur afin de limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 26 October 2020 [last accessed on 28 October 2020].

⁷ Belgium, Flemish Government, New measures to combat further spread of COVID-19 ([Nieuwe maatregelen om verdere verspreiding van COVID-19 tegen te gaan](#)), 27 October 2020 [last accessed on 28 October 2020].

⁸ Belgium, Ministerial Order of 28 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit van 28 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken](#) / [Arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)).

markets (limited to 1 visitor per 1,5 meters per stall) though visitors may not consume food or drinks on site.

- Businesses that offer goods and services to consumers remain open and should follow the relevant protocols for their sector, or in case such a protocol is unavailable, adhere to the in addition to the minimum guidelines on distance and masks which had been previously introduced. The guide for hospitality businesses by the Federal Public Service Economy was updated in October.⁹
- Nightshops close by 22h00.
- The sell of alcohol is prohibited between 20h00 and 5h00.
- Accomodations (e.g. hotels, B&Bs and other holiday rentals) are allowed to remain open, including their restaurant but excluding their bar. A hotel restaurant may only serve hotel guests, taking into account the necessary safety precautions. A federal tourism protocol¹⁰ and several sub-sector specific protocols¹¹ supplement the general rules.

Lastly, on October 30 the federal government announced even stricter measures that are to apply as of 2 November.¹² Apart from keeping all previous restrictions, it was further decided that while hotels and B&Bs can remain open, their restaurants and bars must close (clients' meals must be eaten in rooms) and that non-essential shops must close, but are allowed to organise collection and home delivery of goods ordered in advance. Furthermore, all non-medical contact professions (including hairdressers, make-up artists, wellness centres, massage parlours, beauty salons) must cease their activities.

Regarding tracing efforts, on 17 September, a new Royal Decree¹³ was enacted to enable the deployment of a tracing app, CoronAlert,¹⁴ which was released on September 30.

Regarding the impacts of the pandemic and sanitary measures on the Belgian population, on 16 October 2020, Sciensano published the results of its 4th survey, which was undertaken between

⁹ Belgium, Federal Public Service Economy (Service public federal economie/ Federale Overheidsdienst Economie), Generic Guide for the opening of hospitality to fight the spread of Covid-19 ([Generieke gids voor de handel om de verspreiding van het COVID-19 virus tegen te gaan](#)), 9 October 2020, [last accessed on 20 October 2020].

¹⁰ Belgium, Protocol for the opening of the tourism sector ([Protocol voor de openstelling van de toeristische sector](#)) 9 June 2020 [last accessed on 21 October 2020].

¹¹ A list of the various sub-sector protocols can be found on the [website](#) of the Flemish Tourism Board [last accessed on 21 October 2020].

¹² Belgium, Ministerial decree of 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19 ([Arrêté ministériel du 1 Novembre 2020 modifiant l'arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerial decree van 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19](#)). Published in the Belgian official gazette 1 November 2020 [last accessed 2 November 2020]

¹³ Belgium, Royal Decree implementing Royal Decree No.44 of June 26, 2020 concerning the joint processing of data by Sciensano and the contact centers designated by the competent regional authorities or by the competent agencies, by health inspections and by mobile teams as part of a follow-up of contacts with people (presumed) infected with the COVID-19 coronavirus on the basis of a database within Sciensano ([Arrêté royal portant exécution de l'arrêté royal n° 44 du 26 juin 2020 concernant le traitement conjoint de données par Sciensano et les centres de contact désignés par les autorités régionales compétentes ou par les agences compétentes, par les inspections sanitaires et par les équipes mobiles dans le cadre d'un suivi des contacts auprès des personnes \(présumées\) infectées par le coronavirus COVID-19 sur la base d'une base de données auprès de Sciensano](#)). Published in the Belgian official gazette 17 September 2020 [Last accessed 1 October 2020]

¹⁴ Belgium, see application website: <https://coronalert.be/en/> [Last accessed 2 October 2020]

September 24 and October 2nd.¹⁵ According to the survey, the percentage of people who report not strictly respecting the hygiene and physical distancing measures has increased compared to previous surveys. Disrespect for the rule of staying home when ill has also increased. In contrast, more people indicated in the fourth survey that they strictly observe the measure of covering the mouth and nose in places where the distance of 1.5 meters can not be observed. Young people and men report relatively more often that they do not strictly follow measures.

Regarding implementation of the measures, the Public Prosecutor's Office declared that by November 1st it had opened 109,133 files of suspects of disrespecting COVID-related measures.¹⁶ 64% of these had already been closed with half of them (34,713) having paid a fine and 20,522 being dismissed for lack of evidence or conclusion that no violation had taken place.

Multiple judicial complaints were filed against the sanitary measures before the Council of State. Almost all of the Council's urgent decisions taken during the reporting period rejected the complaints. For example, on 30 October the Council of State rejected complaints contesting the decision to close horeca facilities and to create a federal curfew.¹⁷ Similarly, previous requests to suspend the mandatory closure of horeca facilities were rejected on 28 October.¹⁸ On 9 October, however, the Council decided to suspend the measure imposed by Brussel's Mayor prohibiting prostitution for an indefinite period due to COVID-19 as the Council deemed that such measure did not fall within the competency of local authorities.¹⁹

¹⁵ Belgium, Sciensano, COVID-19 health survey | Less respected hygiene and social distancing measures ([Enquête de santé COVID-19 | Les mesures d'hygiène et de distanciation sociale moins respectées](#)) [last accessed 2 November 2020]

¹⁶ Belgium, Public Prosecutor's Office (Ministère Public), Judicial treatment of breaches of measures to combat the spread of the coronavirus COVID-19 (Update of 1 November 2020) ([Traitement judiciaire des infractions aux mesures de lutte contre la propagation du coronavirus COVID-19 \(Mise à jour du 1er novembre 2020\)](#)) [last accessed 6 November 2020]

¹⁷ Belgium, Council of State, Mandatory closure of the horeca - Curfew - rejection of suspension requests ([Fermeture obligatoire de l'horeca - Couvre-feu - rejet des demandes de suspension](#)) [last accessed 6 November 2020]

¹⁸ Belgium, Council of State, Mandatory closure of the horeca - rejection of suspension requests ([Fermeture obligatoire de l'horeca – rejet des demandes de suspension](#)) [last accessed 6 November 2020]

¹⁹ ¹⁹ Belgium, Council of State, Ordinance of the mayor of the city of Brussels prohibiting prostitution ([Ordonnance du bourgmestre de la ville de Bruxelles interdisant la prostitution](#)) [last accessed 6 November 2020]

1.2 Freedom of assembly

For most of the reporting period, the Decrees in place^{20,21,22} established that the maximum number of persons that are to be allowed in shops is 1 person per each 10 square meters in the establishment and that:

- “A maximum of 200 people may attend the following activities:

1° civil marriages;

2° funerals and cremations, other than the activities referred to in 3°, without the possibility of exposure of the body;

3° the collective exercise of worship and the collective exercise of non-denominational moral services, as well as the activities within a philosophical association;”²³

- “An audience of no more than 200 persons may attend events, shows, lessons in auditoriums and competitions, provided that these are organised indoors;”²⁴
- “An audience of no more than 400 persons may attend events, shows and competitions, provided that they are organised outdoors;”
- “A maximum of 400 participants may attend static demonstrations that take place on the public road, where social distancing can be respected, and which have been previously authorised by the competent municipal authority.”²⁵

On 16 October, the number of spectators in professional sporting events was reduced by half - from 400 to 200.²⁶ On 23 October, it was decided that sporting events were to be held without spectators, and that a maximum of 40 people could be present in the same indoor space for any professional, cultural, religious, educational, association or sports activities.²⁷ On 30 October, new measures were

²⁰ Belgium, Ministerial Decree of 22 August 2020 amending the ministerial decree of June 30, 2020 on emergency measures to limit the spread of the COVID-19 coronavirus ([Arrêté ministériel du 22 août 2020 modifiant l'arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerieel besluit van 22 augustus 2020 houdende wijziging van het ministerieel besluit van 30 juni 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken](#)) Published in the Belgian official gazette 22 August 2020 [Last accessed 5 October 2020].

²¹ Belgium, Ministerial decree of 25 September 2020 amending the ministerial decree of June 30, 2020 on emergency measures to limit the spread of the COVID-19 coronavirus ([Arrêté ministériel du 25 Septembre 2020 modifiant l'arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerieel besluit van 25 september 2020 houdende wijziging van het ministerieel besluit van 30 juni 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken](#)) [Last accessed 5 October 2020]

²² Belgium, Ministerial decree of 8 October 2020 amending the ministerial decree of June 30, 2020 on emergency measures to limit the spread of the COVID-19 coronavirus ([Arrêté ministériel du 8 octobre 2020 modifiant l'arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerieel besluit van 8 oktober 2020 houdende wijziging van het ministerieel besluit van 30 juni 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken](#)) [Last accessed 9 October 2020]

²³ Ibid. article 3. (non official translation)

²⁴ Ibid. (non official translation)

²⁵ Ibid. (non official translation)

²⁶ Belgium, Crisis Centre, COVID-19 Alert Level 4: Stricter Rules From Monday, October 19 ([Niveau d'alerte 4 de la COVID-19 : des règles plus strictes à partir du lundi 19 octobre](#)) [last accessed 2 November 2020]

²⁷ Belgium, Ministerial Decree of 23 October 2020 amending ministerial decree of 18 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit of 23 October 2020 houdende](#)

announced that will take place from November 2nd.²⁸ According to the new rules, only the spouses, their witnesses and the registrar or religious minister can attend the weddings and funerals must be limited to 15 people.

On 20 August 2020 the National Security Council determined²⁹ the rules regarding social contacts and private gatherings (not constituting the abovementioned gatherings) that would apply as of September 1st. The Council determined that every person should only have close social contact (that is, contact in which sanitary measures such as minimum distancing need not be respected) with 5 persons (known as the social bubble) during the whole month of September. In situations in which sanitary measures are respected gatherings of up to 10 people were allowed. In other words, every resident in Belgium was only allowed to see the same 5 people in close contact situation (that is, without respecting sanitary measures), but could gather in groups of 10 people with anyone (not necessarily including those in the social bubble) as long as sanitary measures (e.g. social distancing) could be respected. On 6 October 2020, the federal government announced stricter measures,³⁰ reducing the social bubble to 3 persons instead of 5, limiting private gatherings at one's house to 4 people and determining a maximum of 4 people per table in bars and cafes. On 16 October, it was determined that as of 19 October every person could have close contact (that is, without respecting sanitary measures) with only 1 other person and gatherings in which sanitary measures could be respected were limited to a maximum of 4 people.³¹ On 30 October³² it was further established that only one person with whom a member of the family has close contact can be invited in the family home at a time. Those who live alone are allowed to have 2 close contacts, however, only one at a time can be invited to their home.

wijziging van het ministerieel besluit van 18 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / [Arrêté ministériel du 23 octobre 2020](#) modifiant l'arrêté ministériel du 18 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19), Published in the Belgian Official Gazette of 23 October 2020 [last accessed on 26 October 2020].

²⁸ Belgium, Ministerial decree of 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19 ([Arrêté ministériel du 1 Novembre 2020 modifiant l'arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerial decree van 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19](#)). Published in the Belgian official gazette 1 November 2020 [last accessed 2 November 2020]

²⁹ Belgium, Crisis Centre, Control of the health situation, back to school for all and prospects ([Maîtrise de la situation sanitaire, rentrée scolaire pour tous et perspectives](#)) [Last accessed 9 October 2020]

³⁰ Belgium, Crisis Centre, The Concertation Committee decides on stricter measures and appoints a COVID-19 commissioner ([Le Comité de concertation décide de mesures plus strictes et désigne un commissaire COVID-19](#)) [Last accessed 9 October 2020]

³¹ Belgium, Ministerial Decree of 18 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit van 18 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté ministériel du 18 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 18 October 2020 [last accessed on 20 October 2020].

³² Belgium, Ministerial decree of 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19 ([Arrêté ministériel du 1 Novembre 2020 modifiant l'arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerial decree van 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19](#)). Published in the Belgian official gazette 1 November 2020 [last accessed 2 November 2020]

According to Sciensano's survey mentioned above,³³ 34.5% of the population aged 18 and over is dissatisfied with their social contacts. A percentage which has fallen sharply compared to previous surveys. At the same time, 30% of the population feels weakly supported socially, a percentage that has remained fairly stable compared to previous surveys. The survey, however, was conducted between 24 September and 2 October and thus does not reflect the situation after stricter measures were imposed.

1.3 Freedom of movement

In the reporting period, travel within Belgium has not been limited.³⁴ As of 19 October, however, a national curfew has been in place from midnight to 5am and thus no travelling is allowed in that period (except for essential reasons).³⁵ In Wallonia and Brussels, the curfew has been extended and is in place from 22 to 6am.³⁶

Regarding international travel by Belgium residents (no differentiation is made between nationality), essential travel (which comprises travelling for different professional reasons as well as travelling for imperative family reasons such as family reunification, visits to partners – as specified below –, funerals, weddings and travel required in the context of coparenting) is always possible.³⁷ For non-essential travel (such as tourism or casual visits to family members, which are not considered essential), the Belgium government classifies countries per colour to identify to which countries it is possible to travel as well as to impose measures upon return from certain countries (e.g. testing and quarantining). The classification is updated weekly.

Since September 1st, it is possible for those who live outside of the EU and the Schengen area (regardless of nationality or country of residence) to visit their partner in Belgium (which is considered an essential travel) as long as they can prove to be in a long-term relationship (that is, proving either one year of cohabitation or two years of relationship with at least three meetings lasting a total of at least 45 days or a common child).³⁸ As of September 25,³⁹ travelling to a country placed in the red zone due to COVID-19 cases is no longer prohibited, but only strongly discouraged by the Belgian government. Furthermore, requirements to visit partners in Belgium have been relaxed (currently, partners need to prove either 6 months of cohabitation, one year of relationship with at least two meetings lasting a total of at least 20 days or a common child).

³³ Belgium, Sciensano, COVID-19 health survey | Less respected hygiene and social distancing measures ([Enquête de santé COVID-19 | Les mesures d'hygiène et de distanciation sociale moins respectées](#)) [last accessed 2 November 2020]

³⁴ Belgium, Info Coronavirus, current measures ([mesures actuelles](#)) [Last accessed 9 October 2020]

³⁵ Belgium, Ministerial Decree of 18 October 2020 on urgent measures to limit the spread of the coronavirus COVID-19 ([Ministerieel besluit van 18 oktober 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté ministériel du 18 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 18 October 2020 [last accessed on 20 October 2020].

³⁶ Belgium, Le Soir, As in Wallonia, Brussels extends the curfew from 10 p.m. to 6 a.m. ([Comme en Wallonie, Bruxelles prolonge le couvre-feu de 22 heures à 6 heures](#)), 24 October 2020 [last accessed 3 November 2020]

³⁷ See Belgium, Immigration Office, travel to Belgium ([Les-voyages-vers-la-Belgique](#)) [Last accessed 9 October 2020]

³⁸ Belgium, Crisis Centre, Control of the health situation, back to school for all and prospects ([Maîtrise de la situation sanitaire, rentrée scolaire pour tous et perspectives](#)) [Last accessed 9 October 2020]

³⁹ Belgium, Crisis Centre, Launch of the risk management strategy: citizen empowerment ([Lancement de la stratégie de gestion des risques : responsabilisation des citoyens](#)) [Last accessed 9 October 2020]

2 Implications of Covid-19 and measures to contain it on specific social rights

Please provide information on legislation/measures taken by the government/public authorities, between 1 September – 31 October 2020, in response to COVID-19 that have impacted negatively on relevant social rights with respect to two of the following areas of life: education, work, health care and housing.

2.1 Work

As mentioned above, multiple sectors of the Belgium economy were closed in the reporting period, severely affecting employment. Furthermore, teleworking is again the rule in the country, for those who are able to work that way.

In view of the measures affecting the horeca sector, the three regional horeca federations, Horeca Bruxelles, Fédération Horeca Wallonie and Horeca Vlaanderen, expressed concern regarding the closure of restaurants and bars by the Federal government.⁴⁰ The federations indicated that they would work closely together to ensure that necessary relief measures would be made available to the sector.⁴¹ In particular, they reported having engaged in dialogue with the Federal government on relief measures for their sector, both in the short and long term, for which 500 million euros will be set aside.⁴² Moreover, as mentioned above, a number of horeca collectives and business owners lodged cases before the Council of State against the closure of the horeca. On 28 and 30 October, the Council of State rejected the cases.^{43,44}

To mitigate some of the economic effects of the COVID-related measures, the federal and regional governments issued various initiatives of relief measures during September and October for a number

⁴⁰ Belgium, Horeca Vlaanderen, A black Friday for our sector ([Gitzwarte vrijdag voor onze sector](#)), 16 October 2020 [last accessed on 21 October 2020]; Horeca Bruxelles, The horeca federations are requesting the government to reverse the closure of the horeca ([Les Fédération Horeca demandent au gouvernement de faire marche arrière sur la fermeture de l'Horeca](#)), 17 October 2020 [last accessed on 21 October 2020].

⁴¹ Belgium, Fédération Horeca Wallonie, Reaction to the government's measures ([Réaction aux mesures gouvernementales](#)), 19 October 2020 [last accessed on 21 October 2020]; Horeca Bruxelles, The horeca federations are appealing the closure of the horeca ([Les fédérations Horeca introduisent un recours contre la mesure de fermeture de l'Horeca](#)), 19 October 2020 [last accessed on 21 October 2020].

⁴² Belgium, Horeca Vlaanderen, Dialogue on federal relief measures commenced successfully, concrete action is being taken ([Gesprekken federale steunmaatregelen succesvol opgestart, concrete stappen worden nu gezet](#)), 19 October 2020 [last accessed on 21 October 2020]; Horeca Bruxelles, Reminder – the aid that can be obtained following the closure of the horeca ([RAPPEL – les aides qui ont été obtenues par les Fédération Horeca suite à la fermeture](#)), 21 October 2020 [last accessed on 21 October 2020].

⁴³ Belgium, Council of State, Mandatory closure of the horeca - rejection of suspension requests ([Fermeture obligatoire de l'horeca – rejet des demandes de suspension](#)) [last accessed 6 November 2020]

⁴⁴ Belgium, Council of State, Mandatory closure of the horeca - Curfew - rejection of suspension requests ([Fermeture obligatoire de l'horeca - Couvre-feu - rejet des demandes de suspension](#)) [last accessed 6 November 2020]

of sectors, including the event,⁴⁵ cultural⁴⁶ entertainment and tourism sectors,⁴⁷ the bus and coach sector,⁴⁸ as well as the airline industry⁴⁹ that remained impacted by the corona crisis.

In particular, the regulation whereby, for the purposes of calculating the amount of holiday pay and the duration of holidays for employed persons, days of interruption of work resulting from temporary unemployment due to force majeure following the pandemic caused by the corona virus for workers who have been recognised as temporarily unemployed due to force majeure would be treated as actual working days, was extended for the period from 1 July 2020 up to and including 30 August

⁴⁵ Belgium, Decree of 4 September 2020 of the Flemish Government on the establishment of a refundable advance in support of the reopening of the event sector ([Besluit van 4 September 2020 van de Vlaamse Regering tot instellen van een terugbetaalbaar voorschot ter ondersteuning van de opstart van de evenementensector / Arrêté du 4 septembre 2020 du Gouvernement flamand instaurant une avance remboursable à titre de soutien au démarrage du secteur de l'événementiel](#)), Published in the Belgian Official Gazette 17 September 2020 [last accessed on 21 October 2020].

⁴⁶ Belgium, Decree of 12 October 2020 of the Brussels Government on relief compensation of creative and cultural not-for-profit institutions affected by the measures to limit the spread of the COVID-19 coronavirus ([Besluit van 12 oktober 2020 van de Brusselse Hoofdstedelijke Regering betreffende de steun tot vergoeding van de creatieve en culturele instellingen zonder winstoogmerk getroffen door de dringende maatregelen om de verspreiding van het COVID-19-virus te beperken / Arrêté du 12 octobre 2020 du Gouvernement de la Région de Bruxelles-Capitale relatif à une aide en vue de l'indemnisation des organisations culturelles et créatives à caractère non lucratif affectées par les mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 15 October 2020 [last accessed on 21 October 2020]; Belgium, Decree of 12 October 2020 of the Brussels Government amending the decree of 24 July 2020 on the introduction of exceptional support for cultural workers ([Besluit van 12 oktober 2020 de Brusselse Hoofdstedelijke Regering houdende wijziging van het besluit van de Brusselse Hoofdstedelijke Regering van 24 juli 2020 houdende invoering van uitzonderlijke steun voor de cultuurwerkers / Arrêté du 12 octobre 2020 du Gouvernement de la Région de Bruxelles-Capitale modifiant l'arrêté du Gouvernement de la Région de Bruxelles-Capitale du 24 juillet 2020 instaurant une aide exceptionnelle pour les travailleurs intermittents de la culture](#)), Published in the Belgian Official Gazette 19 October 2020 [last accessed on 21 October 2020].

⁴⁷ Belgium, Decree of the Brussels Government on relief for the event, entertainment, tourism and cultural sector ([Besluit van 15 oktober 2020 van de Brusselse Hoofdstedelijke Regering betreffende steun aan de evenementen-, uitgaans-, toeristische en culturele sector in het kader van de gezondheids crisis COVID-19 / Arrêté du 15 octobre 2020 du Gouvernement de la Région de Bruxelles-Capitale relatif à une aide aux secteurs de l'événementiel, du monde de la nuit, du tourisme et de la culture dans le cadre de la crise sanitaire du COVID-19](#)), Published in the Belgian Official Gazette 23 October 2020 [last accessed on 26 October 2020].

⁴⁸ Belgium, Decree of 9 October 2020 of the Flemish Government amending the decree of 10 July 2020 awarding a subsidy to the bus and coach sector which suffered a loss in profits due to the measures taken by the National Security Council regarding the coronavirus ([Besluit van 9 October 2020 van de Vlaamse Regering tot wijziging van het besluit van de Vlaamse Regering van 10 juli 2020 tot toekening van een subsidie aan de autobus- en autocarsector die een omzetsdaling hebben ten gevolge van de maatregelen genomen door de Nationale Veiligheidsraad vanaf 12 maart 2020 inzake het coronavirus / Arrêté du 9 octobre 2020 du Gouvernement flamand modifiant l'arrêté du Gouvernement flamand du 10 juillet 2020 octroyant une subvention au secteur des autobus et autocars confronté à une baisse du chiffre d'affaires en raison des mesures prises par le Conseil national de Sécurité à partir du 12 mars 2020 concernant le coronavirus](#)), Published in the Belgian Official Gazette 19 October 2020 [last accessed on 21 October 2020].

⁴⁹ Belgium, Decree of 2 October 2020 of the Flemish Government on subsidy scheme to limit the impact of COVID-19 on the liquidity of Flemish regional airports ([Besluit van 2 oktober 2020 van de Vlaamse Regering betreffende de subsidieregeling die wordt toegepast teneinde de impact van COVID 19 op de liquiditeitspositie van de Vlaamse regionale luchthavens te beperken / Arrêté du 2 octobre 2020 du Gouvernement flamand relatif au régime de subventions appliqué en vue de limiter l'impact du COVID 19 sur la position de liquidité des aéroports régionaux flamands](#)), Published in the Belgian Official Gazette 14 October 2020 [last accessed on 21 October 2020].

2020.⁵⁰ Moreover, in September, the measures taken in relation to unemployment on 23 April 2020 were again extended until 30 September 2020.⁵¹ These measures saw to the temporary ease of the conditions under which unemployed people, with or without company supplement, can be employed in vital sectors and the temporary freeze of the degressivity of full unemployment benefits. Regional measures were also taken, for example, in October, Wallonia created new measures to assist the most affected sectors such as horeca.⁵²

According to Sciensano's survey mentioned above,⁵³ a partial return to normal was noted in employment, with 60% of employees continuing their professional activity as before. The percentage of employees who continued to telework decreased, however, over 25% of employees continue to do so. The percentage of workers in technical unemployment fell, and it concerned only 2% of workers. Regular hand disinfection and maintaining a safe distance in the workplace are the most common measures used to prevent the spread of COVID-19. Using a mask in the workplace is on the increase: three quarters of workers apply this measure. The survey, however, was conducted between 24 September and 2 October and thus does not reflect the situation after stricter measures were imposed.

2.2 Education

The Ministerial Decree of 22 August 2020 established that certain sectors such as education may enact their own rules through the issuance of sector protocols.⁵⁴ For this purpose schools in all regions developed a colour code system, consisting of yellow, orange and red (green being the normal scenario without any measures). While code yellow generally saw the continuation of in-person

⁵⁰ Belgium, Royal Decree of 13 September 2020 assimilating the days not worked due to temporary unemployment due to force majeure caused by the pandemic as a result of the coronavirus in the system of annual leave for workers for the period from 1 July to and including 30 August 2020 ([Koninklijk besluit van 13 September 2020 houdende gelijkstelling van de dagen van arbeidsonderbreking ingevolge tijdelijke werkloosheid wegens overmacht door de pandemie, ten gevolge van het coronavirus in het stelsel der jaarlijkse vakantie van de werknemers voor de periode van 1 juli 2020 tot en met 31 augustus 2020 / Arrêté du 13 Septembre 2020 visant à assimiler les journées d'interruption de travail résultant du chômage temporaire pour cause de force majeure à la suite de la pandémie due au virus corona, dans le régime des vacances annuelles des travailleurs salariés, pour la période du 1er juillet 2020 jusqu'au 31 août 2020 inclus](#)), Belgian Official Gazette 24 September 2020 [Last accessed 20 October 2020].

⁵¹ Belgium, Royal Decree of 27 September 2020 for the extension of measures regarding unemployment to limit the spread of COVID-19 coronavirus ([Koninklijk besluit van 27 September 2020 tot verlenging van de maatregelen genomen op vlak van werkloosheid in het kader van de strijd tegen de verspreiding van het coronavirus COVID-19 / Arrêté royal du 27 septembre 2020 du prolongeant les mesures prises en matière de chômage dans le cadre de la lutte contre la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 1 October 2020 [last accessed on 21 October 2020].

⁵² Belgium, Wallonie, Covid-19: regional aid in the face of the second wave of the epidemic ([Covid-19 : aides régionales face à la 2e vague de l'épidémie](#)) [last accessed 2 November 2020]

⁵³ Belgium, Sciensano, COVID-19 health survey | Less respected hygiene and social distancing measures ([Enquête de santé COVID-19 | Les mesures d'hygiène et de distanciation sociale moins respectées](#)) [last accessed 2 November 2020]

⁵⁴ Belgium, Ministerial Decree of 22 August 2020 amending the ministerial decree of June 30, 2020 on emergency measures to limit the spread of the COVID-19 coronavirus ([Ministerieel besluit van 22 augustus 2020 houdende wijziging van het ministerieel besluit van 30 juni 2020 houdende dringende maatregelen om de verspreiding van het coronavirus COVID-19 te beperken](#)) Published in the Belgian official gazette 22 August 2020 / [Arrêté ministériel du 22 aout 2020 modifiant l'arrêté ministériel du 30 juin 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 22 August 2020 [Last accessed 20 October 2020].

lessons, though with additional safety and hygiene measures put in place, the original measures for code orange and code red would have resulted in at least partial distance learning. On 21 September 2020, during a discussion of the effects of the corona-policy on children in the Flemish Parliament, the Flemish Children's Rights Commissioner highlighted the difficulties experienced by children, including lack of suitable space and materials to follow classes and concerns from those in difficult home situations, with distance learning during the first lockdown in Belgium.⁵⁵ Moreover, the Civil Liberties Committee of the European Parliament expressed concerns regarding the "first wave" national measures, stressing that member states should guarantee the right to education by ensuring that classes continue and students have access to them.⁵⁶ Likewise, the Flemish Government emphasised that guaranteeing the right to learn should be central.⁵⁷ In October, all regions have updated the various measures connected to each colour code, including a focus on maintaining, as much as possible, in-person teaching under all colour codes. The decision was a welcome measure to address the possible negative effects of periods of prolonged distance learning. Moreover, where distance learning should become necessary, two telecom providers (Telenet and Proximus) have been offering free wifi to students without internet, which they extended until the end of the school year.⁵⁸

For the restart of the academic year in September 2020 in Brussels and the Walloon region, schools restarted with code yellow.⁵⁹ This meant that classes are held in person but students and staff must take precautionary measures such as wearing a mask (for students, this only applies for those aged 12 or older) and contact with external persons is minimised as much as possible. Presence in school is once again mandatory. A request for suspension of the mask obligation was lodged before the Council of State and rejected on 4 September 2020.⁶⁰ Also higher education started with code yellow.⁶¹ This meant that a mask and physical distance were mandatory and occupancy on campus was to be reduced to 75%. Priority for in-person teaching was to be given to first-year students and those in their final year.

Similarly, in Flanders, schools also restarted with in person classes under code yellow, allowing special measures to be taken at the local level if needed.⁶² Similarly as in the Walloon and Brussels regions, code yellow means that classes are held in person, taking into consideration precautionary measures and where no distance can be kept, masks must be worn (for students, this only applies to those attending secondary school).

⁵⁵ Belgium, Flemish Office of the Children's Rights Commissioner, Children's Rights Commissioner in hearing on youth assistance and childcare in corona policy ([Kinderrechtencommissaris in hoorzitting over jeugdhelp en kinderopvang in coronabeleid](#)), 21 September 2020 [last accessed on 26 October 2020].

⁵⁶ Belgium, Civil Liberties Committee of the European Parliament, [European values: COVID-19 emergency measures pose a "risk of abuse of power"](#), 27 October 2020 [last accessed on 28 October 2020].

⁵⁷ Belgium, Flemish Government, Starting points and pandemic levels or phases ([Uitgangspunten en pandemische niveaus of fasen](#)), 2020 [last accessed on 28 October 2020].

⁵⁸ Belgium, Telenet, Telenet starts trial project with basic internet for vulnerable families ([Telenet start proefproject-met-basisinternet-voor-kwetsbare-gezinnen](#)) [last accessed on 6 November 2020]; Proximus, Students without internet access ([Studenten zonder internettoegang](#)) [last accessed 6 November 2020].

⁵⁹ Belgium, Wallonia-Brussels Federation, [Circular 7691](#) (primary education), 19 August 2020 [last accessed on 20 October 2020]; Wallonia-Brussels Federation, [Circular 7686](#) (secondary education), 18 August 2020 [last accessed on 20 October 2020].

⁶⁰ Belgium, Council of State, [Judgement no. 248.213](#), 4 September 2020 [last accessed on 6 November 2020].

⁶¹ Belgium, Wallonia-Brussels Federation, [Circulaire 7702](#) (higher education), 24 August 2020 [last accessed on 26 October 2020].

⁶² Belgium, Ben Weyts, Start of the school year on 1 September ([Start van het schooljaar op 1 September](#)), 14 August 2020 [last accessed on 20 October 2020].

In light of the surge in COVID-cases during the months of September and October, Brussels, Flanders and Wallonia all moved primary and secondary education from code yellow to code orange in October.

In the Brussels and Walloon regions, the move from code yellow to orange is gradually implemented from 26 October 2020 to be fully applicable after the extended fall holiday on 12 November 2020.⁶³ As mentioned, the measures have been amended to allow for a continuation of in-person teaching for both primary and secondary schools (both under code orange and code red).⁶⁴ However, the option for (partial) distance learning is available for a limited period of time for students of the 2nd, 3rd and 4th degree secondary education (generally ages 14 to 18)⁶⁵ to slow the spread of the virus. The amended measures of code orange include additional measures to infrastructure and classrooms, a limitation of all activities involving contact between adults (including with parents), limiting the presence of external persons as much as possible, extra-curricular activities (including swimming lessons) will take place only if they can comply with the particular protocols for that sector, contact sports should be avoided and outdoor activities are favoured where possible.⁶⁶ Secondary school students and staff should wear masks indoors where physical distance cannot be guaranteed.⁶⁷ On 26 October 2020, the Brussels Government ordered a suspension of all school trips.⁶⁸ This additional measure is intended to apply until 19 November 2020. In addition, the regions took additional steps to suspend face-to-face lessons for secondary schools from Wednesday 28 to Friday 30 October 2020 which, as much as possible, should be replaced by distance learning.⁶⁹

Likewise, all Flemish schools will implement the change from code yellow to code orange by the fall holiday at the latest.⁷⁰ The fall holiday is extended by 2 days.⁷¹ While the amended measures now continue to allow all students to attend both primary and secondary school even under codes orange

⁶³ Belgium, Wallonia-Brussels Federation, Organisation of courses and/or regulatory information ([Organisation des cours et/ou infos réglementaires](#)) [last accessed on 26 October 2020].

⁶⁴ Belgium, Wallonia-Brussels Federation, [Circulaire 7797](#) (primary education), 20 October 2020 [last accessed on 26 October 2020]; Belgium, Wallonia-Brussels Federation, [Circulaire 7796](#) (secondary education), 21 October 2020 [last accessed on 26 October 2020].

⁶⁵ Belgium, Wallonia-Brussels Federation, [Circulaire 7796](#) (secondary education), 21 October 2020 [last accessed on 26 October 2020].

⁶⁶ Belgium, Wallonia-Brussels Federation, [Circulaire 7797](#) (primary education), 20 October 2020 [last accessed on 26 October 2020]; Belgium, Wallonia-Brussels Federation, [Circulaire 7796](#) (secondary education), 21 October 2020 [last accessed on 26 October 2020].

⁶⁷ Belgium, Wallonia-Brussels Federation, [Circulaire 7796](#) (secondary education), 21 October 2020 [last accessed on 26 October 2020].

⁶⁸ Belgium, Decree of 26 October 2020 of Prime Minister of the Brussels Government on additional measures to supplement those determined by the Minister of the Interior to limit the spread of the COVID-19 coronavirus ([Besluit van 26 October 2020 van de Minister-President van het Brussels Hoofdstedelijk Gewest tot bepaling van bijkomende maatregelen naast degene die bepaald zijn door de minister van Binnenlandse Zaken om de verspreiding van het coronavirus COVID-19 te beperken / Arrêté du 29 octobre 2020 du Ministre-Président de la Région de Bruxelles-Capitale arrêtant des mesures complémentaires à celles arrêtées par le ministre de l'Intérieur afin de limiter la propagation du coronavirus COVID-19](#)), Published in the Belgian Official Gazette 26 October 2020 [last accessed on 28 October 2020].

⁶⁹ Belgium, Wallonia-Brussels Federation, [Circulaire 7807](#) (secondary education), 26 October 2020 [last accessed on 28 October 2020].

⁷⁰ Belgium, Ben Weyts, Schools remain open with additional security measures ([Scholen blijven open met bijkomende veiligheidsmaatregelen](#)), 20 October 2020 [last accessed on 20 October 2020].

⁷¹ Belgium, Flemish Government, Fall holiday extended by 2 days ([Herfstvakantie met 2 dagen verlengd](#)), 25 October 2020 [last accessed on 26 October 2020].

and red,⁷² for 2nd and 3rd degree secondary education, representing the older secondary school students, the amended measures offer the option of opting for distance learning under each code (yellow, orange and red)⁷³ to slow the spread of the virus. To support such distance learning, the Flemish Minister of Education has made available 10 million euros for the purchase of 15,000 new laptops for vulnerable students.⁷⁴ This is in addition to the 12,000 second-hand laptops that were made available earlier this year.⁷⁵ Additional measures are imposed to infrastructure and classrooms, lunchbreaks as well as PE lessons, contact with external persons is minimised as much as possible, extra-curricular activities are suspended with the exception of swimming lessons.⁷⁶ By late October over 24,600 Flemish students were placed in quarantine, roughly concerning 2,06% of all Flemish students.⁷⁷

Moreover, in light of the increasing number of coronavirus cases, the Federal Government announced new measures for **higher education** on 23 October 2020, providing that occupancy should be reduced to a maximum of 20%, wearing a mask is mandatory, with some exceptions for first year students.⁷⁸ The Brussels and Walloon regions decided to take further steps which were laid down a special protocol for higher education, applicable for the period of 26 October to 19 November 2020.⁷⁹ This provided that all in-person teaching was suspended with the exception of laboratories, other practical work and artistic courses that cannot be held at a distance. The Flemish higher education originally moved to code orange by the fall holiday, which meant a reduced capacity in face-to-face contact (1-to-5 occupancy with mandatory masks), with some exceptions for first-year students.⁸⁰ In effect, this meant that different measures were applicable to the Flemish and Walloon higher education institutions, applying code orange and code red respectively. In Brussels, this resulted in confusion related to the rules applicable to Dutch-speaking and French-speaking higher education institutions. It was reported that the Dutch-speaking institutions resolved this confusion by moving to

⁷² Belgium, Flemish Government, Roadmap 2020-2021 primary education ([Draaiboek 2020-2021: gewoon en buitengewoon basisonderwijs](#)), 2020; Flemish Government, Roadmap 2020-2021 secondary education ([Draaiboek 2020-2021: gewoon secundair onderwijs, buso OV3, OV4 en hbo5](#)), 2020 [last accessed on 21 October 2020].

⁷³ Belgium, Flemish Government, Roadmap 2020-2021 secondary education ([Draaiboek 2020-2021: gewoon secundair onderwijs, buso OV3, OV4 en hbo5](#)), 2020 [last accessed on 21 October 2020].

⁷⁴ Belgium, Ben Weyts, Ben Weyts buys 15,000 new laptops for vulnerable students ([Ben Weyts koopt 15.000 nieuwe laptops voor kwetsbare leerlingen](#)), 3 November 2020 [last accessed on 6 November 2020].

⁷⁵ *Ibid.*

⁷⁶ Belgium, Flemish Government, Roadmap 2020-2021 primary education ([Draaiboek 2020-2021: gewoon en buitengewoon basisonderwijs](#)), 2020; Flemish Government, Roadmap 2020-2021 secondary education ([Draaiboek 2020-2021: gewoon secundair onderwijs, buso OV3, OV4 en hbo5](#)), 2020 [last accessed on 21 October 2020].

⁷⁷ Belgium, Flemish Government, Number of students and teachers positive/quarantined in primary and secondary education ([Aantal leerlingen en leraren besmet/quarantaine basis- en secundair onderwijs 28 October 2020](#)), 28 October 2020 [last accessed on 30 October 2020].

⁷⁸ Belgium, Federal Government, COVID-19 alarm level 4: Committee tightens corona measures for sport, culture and higher education ([COVID-19 alarmniveau 4: Overlegcomité verstrengt coronaregels voor sport, cultuur en hoger onderwijs](#)), 23 October 2020 [last accessed on 26 October 2020].

⁷⁹ Belgium, Wallonia-Brussels Federation, [Circulaire 7805](#) (higher education), 26 October 2020 [last accessed on 26 October 2020].

⁸⁰ Belgium, Flemish Government, Higher education to phase orange – priority for first-year students ([Hoger onderwijs naar fase oranje - prioriteit voor eerstejaarsstudenten](#)), 19 October 2020 [last accessed 26 October 2020].

code red on their own volition.⁸¹ However, by 27 October 2020, the Flemish Government announced that they also moved to code red for higher education,⁸² ensuring a more harmonised approach across the different regions. The Flemish government announced that the measures would require complete distance learning between 30 October until 11 November (exceptions for the nursing, midwifery, medicine, dentistry and physiotherapy programmes applied). From 12 November 2020, certain relaxations of this rule are intended for first year students and the organisation of tutorial and practical lessons.⁸³

Finally, in view of the continued increase in the number of new infections, on October 30, the federal government decided to implement new measures that apply from November 2nd.⁸⁴ It was decided to extend in 2 further days the fall holidays, with classes now returning on November 16th only. It was further determined that:

- For secondary education, pupils in the second and third degrees will switch to a maximum of 50% contact education until 1 December.
- For higher (tertiary) education, distance learning will be provided:
 - For first-year students: until 1 December when they can follow contact education again.
 - For older students, at least until the end of the calendar year.

3 Negative impact on social rights for vulnerable groups including measures to address this

Please select and provide information concerning two groups whose social rights were particularly negatively impacted with respect to developments/measures adopted in relation to COVID-19, between 1 September – 31 October 2020. For each of the two groups selected – highlight which social rights were most impacted. Also, identify any government and related measures that were introduced to alleviate the negative impact on these groups.

3.1 Persons with disabilities

Access to health care and support services in care institutions and at home

For persons with disabilities, COVID-19 related measures particularly impacted their access to care and support services in care institutions and at home. In September, the Flemish ad hoc Commission

⁸¹ Belgium, vrt news, Different rules for Dutch and French-speaking higher education in Brussels, everyone will move to code red ([Andere regels voor Nederlandstalig en Franstalig hoger onderwijs in Brussel, maar toch gaat iedereen naar code rood](#)), 25 October 2020 [last accessed on 26 October 2020].

⁸² Belgium, Flemish Government, New measures to combat further spread of COVID-19 ([Nieuwe maatregelen om verdere verspreiding van COVID-19 tegen te gaan](#)), 27 October 2020 [last accessed on 28 October 2020].

⁸³ Belgium, Flemish Government, Roadmap 2020-2021: Universities ([Draaiboek 2020-2021: Universiteiten](#)), 28 October 2020; Flemish Government, Roadmap 2020-2021: College ([Draaiboek 2020-2021: Hogescholen](#)) [last accessed on 30 October 2020].

⁸⁴ Belgium, Ministerial decree of 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19 ([Arrêté ministériel du 1 Novembre 2020 modifiant l'arrêté ministériel du 28 octobre 2020 portant des mesures d'urgence pour limiter la propagation du coronavirus COVID-19 / Ministerial decree van 1 November 2020 amending the ministerial decree of 28 October 2020 containing urgent measures to limit the spread of the coronavirus COVID-19](#)). Published in the Belgian official gazette 1 November 2020 [last accessed 2 November 2020]

for the Evaluation and Further Implementation of the Flemish Corona Policy⁸⁵ focused on the impact of the pandemic on persons with disabilities with input from external stakeholders. During these sessions, FOVIG, the Federation for collective consultation in facilities for people with disabilities, noted that its members were very indignant and shocked at the **lack of protective materials and testing**, and that months of isolation without or with greatly **reduced access to therapies** had had an impact. It also criticised government authorities for issuing the same guidelines for all target groups in residential care facilities, despite significant differences in terms of age, risk categories, mobility, medical issues, dependency etc. In residential institutions, the focus was mainly on permanent residents and **very little attention** was paid to those who were forced - as day centres were closed - to stay **at home**.⁸⁶

Gezin en Handicap stated that parents, taking care of their child with a disability at home because there were no other options, found it difficult to understand why **budgets were mainly allocated to residential care facilities** whereas they were left to pay for everything themselves. It noted that although care providers, such as multifunctional centre for children with disabilities, were supposed to intervene in difficult situations at home, this barely happened in practice.⁸⁷

Onafhankelijk Leven noted that a survey among its members showed that **41.6% of respondents did not have access to support services** provided by the residential care facility for three weeks and were forced to organise their own care at home. One in five persons with a personalised budget who are not residents in a residential care facility and need assistance could no longer call on that assistant for ten hours or more per week. 64% also indicated that (para)medical care, such as physiotherapy, was much less accessible than usual. In the first phase of the lockdown, physiotherapy was discontinued because there was not enough protective equipment, leading to significant health issues for those who really need it. Almost half of the respondents indicated that they were no longer able to decide for themselves how care and assistance were organised.⁸⁸

Another issue raised before the Parliamentary Commission includes a **lack of a testing-strategy** for persons with disabilities. One of the founders of a group home for persons with disabilities notes, for instance, that residents were tested after they had already been in quarantine for eight weeks, rather than keeping the tests for the young people who had been staying at home but would return to the residence a few weeks later.⁸⁹

Triage

The National High Council for Persons with Disabilities reiterated its concerns over the Ethical Guidelines developed by the Ethical Care Commission of Leuven Hospital (UZ Leuven) on triage during

⁸⁵ Belgium, Flemish Parliament, ad hoc Commission on the for the Evaluation and Further Implementation of the Flemish Corona Policy ([Commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid](#)), 2020.

⁸⁶ Belgium, Flemish Parliament, Report of the hearing on behalf of the Ad Hoc Committee for the Evaluation and Further Implementation of the Flemish Corona Policy in the area of Welfare, Public Health and Family: persons with disabilities ([Verslag van de hoorzitting namens de Commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid over de evaluatie en verdere uitvoering van het Vlaamse coronabeleid in het beleidsdomein Welzijn, Volksgezondheid en Gezin: persone met een handicap](#)), 7 October 2020.

⁸⁷ Ibid.

⁸⁸ Ibid.

⁸⁹ Belgium, Flemish Parliament, Report of the hearing on behalf of the Ad Hoc Committee for the evaluation and further implementation of the Flemish Corona policy in the policy area Welfare, Public Health and Family: persons with disabilities ([Verslag van de hoorzitting namens de Commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid in het beleidsdomein Welzijn, Volksgezondheid en Gezin: personen met een handicap](#)), 9 October 2020.

the COVID-19 crisis.⁹⁰ The High Council stresses that the guidelines remain too vague on the potential impact on persons with disabilities and is worried that ambiguous wording could cause medical professionals to include disability in their assessment. The Council thus remains very concerned about the existence of emergency triage but also 'upstream triage', namely whether all persons with disabilities living in an institution, suffering from the disease and whose condition requires hospital care are properly referred to hospitals.⁹¹

Financial support

In June 2020, the Belgian Government adopted a Royal Decree granting beneficiaries of certain social assistance benefits (including persons with disabilities entitled to Income Replacement Benefits or Integration Benefits) a **monthly allowance** of EUR 50 from July 2020 to December 2020.⁹² On 7 October 2020, the Belgian Anti-Poverty Network (BAPN) announced in a press-release that it considers the amount to be insufficient and the measure to overlook many other households who are financially vulnerable. The **Network therefore appealed the allowance** before the Brussels Court of First Instance to challenge the discrimination against households, who are equally impoverished by the crisis but who do not benefit from the 50 euros per month, including people who are incapacitated for work due to illness or disability and older persons with the lowest pensions.⁹³ Other groups outlined by the network as not covered by the decree include unemployed people with the lowest unemployment benefits (due to degressivity of benefits over time), young people on integration benefits ('inschakelingsuitkering'), and 'the working poor', namely people who are employed but whose incomes are very low.

In July 2020, the Belgian Federal Government allocated 125 million euros to the Public Welfare Centres (OCMW/CPAS) to support people affected by COVID-19.⁹⁴ In September, the Belgian Federal Public Service for Social Integration launched a **communication campaign on that financial support** available for those affected by the COVID-19 crisis to encourage anyone in need to contact their municipality's Public Welfare Centre. The campaign's brochure explicitly refers to persons with disabilities as the target group for the financial support provided.⁹⁵ After concerns were raised about the fact that Public

⁹⁰ Belgium, Ethische commissie-zorg UZ Leuven, Ethical aspects of making choices in the COVID-19 crisis ([Ethische aspecten van het maken van keuzes in de COVID-19 crisis](#)), 17 March 2020.

⁹¹ Belgium, National High Council for Persons with Disabilities (2020), 'Covid19: An ethical charter in the hospitals' ([Covid-19: Een ethisch handvest in de ziekenhuizen](#)), 28 October 2020.

⁹² Belgium, Royal Decree no. 47 of 26 June 2020 implementing Article 5, § 1, 3° and 5° of the Law of 27 March 2020 authorising the King to take measures to combat the spread of the coronavirus COVID-19 (II), with a view to granting a temporary contribution to those entitled to certain social assistance benefit ([Koninklijk besluit nr. 47 tot uitvoering van artikel 5, § 1, 3° en 5°, van de wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 \(II\), met het oog op het toek](#)), Published in the Belgian Official Gazette 15 July 2020.

⁹³ Belgian Anti-Poverty Network (BAPN) (2020), 'The Poverty Reduction Networks appeal against the Covid 19 grant and call for the protection of all financially vulnerable people further impoverished by the crisis' ([De netwerken armoedebestrijding gaan in beroep tegen de Covid 19-toelage en vragen de bescherming van alle financieel kwetsbare mensen die door de crisis verder verarmd zijn](#)'), 7 October 2020.

⁹⁴ Belgium, Royal Decree of 3 July 2020 amending the Royal Decree of 13 May 2020 introducing a "Covid-19" subsidy for the target group of public social welfare centres ([Koninklijk besluit tot wijziging van het koninklijk besluit van 13 mei 2020 houdende het invoeren van een subsidie "Covid-19" voor de doelgroep van de openbare centra voor maatschappelijk welzijn](#)), Belgian Official Gazette 9 July 2020.

⁹⁵ Belgian Federal Public Service for Social Integration, "'The Public Welfare Centers are here for you" - Launch of the communication campaign of the FPS Social Integration' (["De OCMW's zijn er voor jou" - Lancering van de communicatiecampagne van de POD Maatschappelijke Integratie](#)'), 28 September 2020.

Welfare Centres are required to spend the budget before the end of the year,⁹⁶ the Federal Parliament approved a bill that will allow them to use the budget in 2021 as well.⁹⁷

In Flanders, persons with a disability with a **personalised budget** (PVB) are granted a **25,5% increase** of that budget until the end of 2020. The measure aims to compensate the additional costs that persons with disabilities encounter when having to organise their care at home themselves if services provided by care facilities are not available.⁹⁸

Education

Children with disabilities faced significant obstacles in access to education due to COVID-19 related measures. During a session of the Flemish ad hoc Commission for the Evaluation and Further Implementation of the Flemish Corona Policy, Gezin en Handicap noted that although schools had to provide emergency care, many parents of children in special education were **told that they should stay home for the rest of the year**. Despite road maps being developed for kindergartens, elementary school, and secondary education, there was no road map for the special education at first.⁹⁹

The head mistress of a **school for special education** explains the difficulties it encountered in the media. In May, some of the students were not able to resume classes in person. Pupils with high dependency, who needed the proximity of teachers and paramedics, could not respect or enforce the social distancing rule. These students needed care – e.g. help to move around, to eat. Therefore they had to follow the courses at a distance and **were deprived of going to school and social contacts for months**. After summer, all students returned to school. Some are **exempted from wearing a mask** and staff tries, as much as possible, to keep the necessary distance to avoid possible contamination. The head mistress also notes that they have to **help the young people regain their self-confidence** and their confidence in their learning abilities after the difficult months behind them.¹⁰⁰

A particular issue faced by students with disabilities is **school transportation**. In September, the media reported that some students with disabilities have to spend up to 5 hours a day on the school bus. Due to COVID-19, students from primary and secondary schools were no longer allowed to share the school bus, as the latter have to wear a mouth mask to school. Consequently, school busses take much longer to transport all students. In addition to the long time spent on the school bus, children with disabilities all of a sudden are not always picked up by the usual bus attendant, causing confusion and stress.¹⁰¹ In response, the Flemish Government announced the allocation of an additional budget of 2

⁹⁶ Belgium, Vereniging voor Steden en Gemeenten (2020), 'EUR 125 million of corona support for people in financial difficulties stuck in administrative mill' ('[125 miljoen euro coronasteun voor mensen met financiële problemen blijft steken in administratieve molen](#)'), 2 September 2020.

⁹⁷ Belgium, Federal Parliament, Bill amending the Royal Decree of 13 May 2020 introducing a "Covid-19" subsidy for the target group of public social welfare centres ([Wetsvoorstel tot wijziging van het koninklijk besluit van 13 mei 2020 houdende het invoeren van een subsidie "Covid-19" voor de doelgroep van de openbare centra voor maatschappelijk welzijn](#)), 23 September 2020.

⁹⁸ Flemish Agency for Persons with Disabilities, COVID-19 measures for budget holders: budget increase and end date ([Maatregelen COVID-19 voor budgethouders: budgetverhoging en einddatum](#)), 30 September 2020.

⁹⁹ Belgium, Flemish Parliament, Report of the hearing on behalf of the Ad Hoc Committee for the Evaluation and Further Implementation of the Flemish Corona Policy in the area of Welfare, Public Health and Family: persons with disabilities ([Verslag van de hoorzitting namens de Commissie ad hoc voor de Evaluatie en Verdere Uitvoering van het Vlaamse Coronabeleid over de evaluatie en verdere uitvoering van het Vlaamse coronabeleid in het beleidsdomein Welzijn, Volksgezondheid en Gezin: persone](#)), 7 October 2020.

¹⁰⁰ Belgium, Hennuy J.-C. (2020), 'Limal: an unusual start to the Escalpade (special education), code yellow' ([Limal : une rentrée inhabituelle à l'Escalpade \(enseignement spécialisé\), en code jaune](#)), 1 September 2020.

¹⁰¹ Belgium, Huysentruyt, B. (2020), 'Children in special education spend 2.5 hours on the way to school due to coronavirus measures: "This is really extreme for them"' ([Kinderen van buitengewone schooljes zijn 2,5 uur onderweg naar school door coronamaatregelen: "Dit is voor hen echt extreem"](#)), *Het Laatste Nieuws*, 1 September 2020.

million euros to fund extra busses.¹⁰² However, parents think that the long hours spent on the school bus are in fact a structural problem in special education. One parent states that her child always spends up to 5 hours on the bus, which was increased to 6 hours due to COVID-19 related measures.¹⁰³

3.2 Older persons

Access to health care

For older persons, COVID-19 related measures have mainly had an impact on their right to health care. As mentioned above, Sciensano published the results of its fourth COVID-19 Health Survey in October. The results show that **fewer older persons consulted a doctor** since the lockdown (19%) than younger age groups (for example, 28-29% of persons aged 25-44). Approximately 19% of older persons have been tested for COVID-19, compared to the total average of 24%. In terms of mental health, the survey shows that the lowest percentage of depression is observed in persons aged 65 years and older (8%).¹⁰⁴

A study by the Socialist Health Insurance funds (Socialistische mutualiteiten) shows that the pandemic **particularly affected older persons in the residential care homes and older persons in a weaker financial position**. More than half (53%) of the deaths caused by COVID-19 were among persons aged 85 and older, followed by those aged 75 to 84 (29.1%). Excess mortality was particularly high in residential care centres. Almost 2/3 of the excess mortality was due to the deaths of the residents there. That number was almost double (+95%) as high as normal. Older persons with a low incomes have also been more severely affected by the pandemic than those with higher incomes. The excess mortality rate among low-income older people who receive an increased allowance from the health insurance fund appears to be three times higher than among high-income earners.¹⁰⁵

In recent weeks there has been a significant **rise in COVID-19 infections in residential care centres for the elderly**. The Flemish Agency for Care and Health stated in the media that by 27 October, infections had been reported in over half of residential care centres in Flanders.¹⁰⁶ The media reported on the same day that according to the Walloon Agency for Health (AVIQ), approximately 5% of residents and staff of residential care centres in the Walloon Region are infected. One in six care centres reported a cluster of infections (more than 10 cases).¹⁰⁷

Staff members in particular are infected, making it a challenge for many residential care centers to ensure the quality of care. Availability of protective gear is no longer an issue, but **shortage of staff** is definitely a concern. One of the measures taken in response of this issue is a new employment

¹⁰² Belgium, Petralia, N. (2020), 'Extra budget for bus transport in special education: "Schools should not have to pay for all these extra costs"', (['Extra budget voor busvervoer in het buitengewoon onderwijs: "Scholen mogen niet opdraaien voor al die extra kosten"'](#)), VRT NWS, 6 September 2020.

¹⁰³ Belgium, Maenhout, K. (2020), 'Especially forgotten: when you sit on the bus for six hours every day' (['Buitengewoon vergeten: als je elke dag zes uur op de bus zit'](#)), *De Standaard*, 4 September 2020.

¹⁰⁴ Belgium, Sciensano, Fourth Covid-19 Health Survey: Preliminary Results (['Vierde Covid-19-Gezondheidsenquête: Eerste resultaten'](#)), 16 October 2020.

¹⁰⁵ Belgium, Vlaamse Ouderenraad (2020), 'Corona particularly affects older people in weaker socio-economic situations' (['Corona treft vooral ouderen in zwakkere socio-economische situatie'](#)), 16 October 2020.

¹⁰⁶ Belgium, Huyghebaert, P. (2020), 'Coronavirus re-emerged in half of Flemish residential care centers: "No longer shortage of materials, but staff"' (['Coronavirus opnieuw opgedoken in helft van Vlaamse woonzorgcentra: "Geen tekort meer aan materiaal, wel aan personeel"'](#)), VRT NWS, 27 October 2020.

¹⁰⁷ Belgium, Le Soir (2020), 'Coronavirus: about 5% of the residents of Walloon care homes are infected' (['Coronavirus: environ 5% des résidents des maisons de repos wallonnes sont contaminés'](#)), Le Soir, 27 October 2020.

platform where persons who are temporarily unemployed due to COVID-19 can take up supporting roles in the health care sector. Residential care institutions also state in the media that testing remains an issue, with waiting periods up to 5 days for the results. Consequently new residents are infected before even getting the test results in of other residents that turn out to be infected.¹⁰⁸

Triage

On 11 September 2020, the Special commission in charge of evaluating Wallonia's management of the Covid-19 health crisis discussed the situation in residential care centres for the elderly. The director of a care home testified that residents were deliberately kept away from hospitals as it was assumed they could not be saved. A care worker in a residential care home also noted they were not informed at the start of the crisis that residents would not be taken into intensive care.¹⁰⁹

In March, the Belgian Society for Gerontology and Geriatrics (BVG) had issued guidelines for health care professionals to help assess whether or not to admit an older person to hospital, in order to avoid the weakest patients being transferred who will clearly not survive.¹¹⁰ The guidelines wrongly gave the impression that residents of residential care for the elderly infected with COVID-19 were not allowed to go to the hospital. In October, due to the second wave of Covid-19 infections, the BVG therefore announced it had modified the guidelines and clarified that age can never be a criterion for not admitting a person infected with COVID-19 to the hospital.¹¹¹

Social security

As noted above, a **monthly allowance** of EUR 50 is allocated to beneficiaries of certain social assistance benefits.¹¹² This also includes beneficiaries of a Guaranteed Income for Seniors (IGO/GRAPA). On 26 October, the federal Government issued a press release warning those beneficiaries for phishing. There are currently **scammers** at work who call citizens on behalf of the National Social Security Office or Federal Pension Office saying that they are entitled to a COVID premium of more than 1,000 euros. In order to receive this premium, citizens must provide their bank account number. It is reiterated that persons who receive an income guarantee for the elderly are entitled to a monthly allowance, and that this is granted automatically.¹¹³

Since 1 July 2019, a new stricter procedure is in place for the monitoring of recipients of a **Guaranteed Income for Seniors** (IGO/GRAPA), which includes controls carried out by the postal services who deliver a letter upon verification of the recipient's ID-card. If there is no response after coming to the door three times, a document is left behind which the recipient has to present town within five days.

¹⁰⁸ Belgium, Huyghebaert, P. (2020), 'Coronavirus re-emerged in half of Flemish residential care centers: "No longer shortage of materials, but staff"' (["Coronavirus opnieuw opgedoken in helft van Vlaamse woonzorgcentra: "Geen tekort meer aan materiaal, wel aan personeel"](#)), VRT NWS, 27 October 2020.

¹⁰⁹ Belgium, Klaric, M. (2020), '4800 Covid deaths in care homes: not all of them were supposed to die' (["4800 décès du Covid dans les maisons de repos : tous ne devaient pas mourir"](#)), RTBF, 11 September 2020.

¹¹⁰ Belgium, Belgian Association for Gerontology and Geriatrics, 'Decision in case of admission of a potential Covid-positive resident of a care centre for elderly' (["Beslissing bij opname mogelijk COVID Pos WZC bewoner"](#)), 19 March 2020.

¹¹¹ Belgium, Beel, V. (2020), 'Refusing care in hospital on the basis of age is not allowed' (["Zorg in ziekenhuis weigeren op basis van leeftijd mag niet"](#)), 29 October 2020.

¹¹² Belgium, Royal Decree no. 47 of 26 June 2020 implementing Article 5, § 1, 3° and 5° of the Law of 27 March 2020 authorising the King to take measures to combat the spread of the coronavirus COVID-19 (II), with a view to granting a temporary contribution to those entitled to certain social assistance benefit (["Koninklijk besluit nr. 47 tot uitvoering van artikel 5, § 1, 3° en 5°, van de wet van 27 maart 2020 die machtiging verleent aan de Koning om maatregelen te nemen in de strijd tegen de verspreiding van het coronavirus COVID-19 \(II\), met het oog op het toek"](#)), Belgian Official Gazette 15 July 2020.

¹¹³ News Belgium, 'COVID-19 allowance: watch out for phishing on the phone!' (["Premie COVID-19: let op voor phishing per telefoon!"](#)), 26 October 2020.

The new procedure was criticised by human rights organisations as it restricts beneficiary's freedom of movement even within the country, intensifies controls, and lacks transparency.¹¹⁴ On 3 September 2020, the Belgian Anti-Poverty Network (BAPN) announced that the Minister of Pensions agreed to its call to **suspend all monitoring** activities until the end of the year to ensure social distancing and protect older persons from COVID-19 infections.¹¹⁵

¹¹⁴ Ligue des Droits Humains (2020), 'GRAPA Controls: letter to the MEPs and the Ministers' (['Contrôles GRAPA: lettre aux Parlementaires et aux Ministres'](#)), 27 January 2020 [last accessed 27 September 2020].

¹¹⁵ Belgium, Belgian Anti-Poverty Network (2020), '[IGO controls remain suspended until the end of 2020](#)' (['De IGO-controles blijven opgeschort tot eind 2020'](#)), 3 September 2020.