

# Coronavirus pandemic in the EU – Fundamental Rights Implications

**Country:** Luxembourg

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# 1 Measures taken by government/public authorities

## 1.1 Emergency laws/states of emergency

The state of emergency which was declared for three months in Luxembourg came to its end on 24 June 2020. After three weeks of intense legislative work, on 22 June 2020 the parliament adopted two “COVID-19 laws” to provide a continuous legislative framework addressing the COVID-19 situation after the end of the state of emergency.<sup>1</sup> The first piece of legislation<sup>2</sup> contains measures with respect to individuals. They revolve around the limitation of mass gatherings, the application of protective measures such as wearing face masks or social distancing, and the identification, follow-up and removal of infected and potentially infected people. The second piece of legislation<sup>3</sup> targets measures relating to economic, sporting or cultural activities and welcoming the public. It reinforces the current health restrictions and rules, for example in restaurants, bars and cafes.

With the new laws the legislator intended to rely on the principle of individual responsibility, rather than sanctions. Only two articles of the first act impose sanctioning, the rules that relate to the distances to be respected for gatherings beyond 20 people and those relating to the obligation to wear masks under certain circumstances.<sup>4</sup> The rules laid down about private gatherings will be among the least restrictive in Europe as, according to the Council of State (*Conseil d'État*), it would be impossible to ban gatherings of more than 20 people in a private home, as initially provided for by the text, let alone to monitor the compliance with such rule.<sup>5</sup> The restriction has therefore become a simple recommendation for the private sphere. The limit of 20 people, however, will remain in effect in public places. Compliance with this rule may be monitored and sanctioned in the event of non-compliance.<sup>6</sup>

At the same time, the new laws received heavy criticism from different stakeholders. The most debated parts relate to persons infected with COVID-19 who, in case of refusing voluntary isolation, could be forcibly hospitalized to protect the population. The president of the Superior Court of Justice claimed that their opinion was never requested about the laws and that the practical application of the forced hospitalisation will be problematic.<sup>7</sup> The Consultative Commission on Human Rights (CCDH)

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<sup>1</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Green light for “COVID laws”](#) (*Feu vert pour les «lois COVID»*), 22.06.2020.

<sup>2</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (*Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments*) 25.06.2020.

<sup>3</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures relating to sports, cultural activities and establishments open to the public, in the context of the fight against the Covid-19 pandemic](#) (*Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les activités sportives, les activités culturelles ainsi que les établissements recevant du public, dans le cadre de la lutte contre la pandémie Covid-19*), 25.06.2020.

<sup>4</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Green light for “COVID laws”](#) (*Feu vert pour les «lois COVID»*), 22.06.2020.

<sup>5</sup> Luxembourg, [Opinion of the Council of State Project on the law introducing a series of measures concerning natural persons in the context of the fight against the SARS-CoV-2 virus \(Covid-19\) and amending 1. the amended law of 25 November 1975 concerning the supply to the public of medicines; 2. the amended law of 11 April 1983 regulating the marketing and advertising of medicines](#) (*Avis du Conseil d'État Projet sur la loi portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre le virus SARS-CoV-2 (Covid-19) et modifiant 1. la loi modifiée du 25 novembre 1975 concernant la délivrance au public des médicaments ; 2. la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments*), 16.06.2020.

<sup>6</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Green light for “COVID laws”](#) (*Feu vert pour les «lois COVID»*), 22.06.2020.

<sup>7</sup> Luxembourg, RTL 5Minutes, [The Superior Court of Justice was not consulted](#) (*La Cour supérieure de justice n'a pas été consultée*), Press news release on 24.06.2020.

in its opinion to the bill emphasised that forced hospitalisation of patients amounted to serious interference with their fundamental rights, as it constituted deprivation of liberty which could be justified only on exceptional grounds. The CCDH stressed that the public prosecutor's order on compulsory hospitalization should be well-reasoned and that procedural guarantees must be ensured throughout the process, including the appeal proceedings against such an order.<sup>8</sup>

The two laws entered into force on 25 June 2020 and have a duration of one month. As the health situation is constantly changing, measures are subject to change and any modification will require an intervention of the parliament.<sup>9</sup>

In response to the recent political events in the U.S. and, in particular, to the death of George Floyd in police custody, an anti-racism organisation *Lëtzt Rise Up* organised a peaceful demonstration in front of the U.S. embassy in Luxembourg on 6 June 2020.<sup>10</sup> The demonstration was pre-approved and monitored by the police.<sup>11</sup> The organisers asked the participants to comply with the current health requirements concerning compulsory face masks and social distancing. Clearly identified volunteers were stationed at the site to ensure safety during the event and to distribute the guidelines to the participants.<sup>12</sup> The demonstration took place peacefully, without any police intervention.<sup>13</sup>

## 1.2 Measures affecting the general population

### 1.2.1 Social distancing

While a number of restrictions and measures have been relieved during the (4) phases of deconfinement, social distancing together with hygienic masks remain two important security measures still in place in public places. They are often used in combination to ensure protection from virus.

Currently, a distance of 2 meters is to be respected in all public places. Furthermore, masks are required if social distancing cannot be respected<sup>14</sup> (since gatherings of more than 20 people have now

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<sup>8</sup> Luxembourg, [Consultative Commission on Human Rights of the Grand Duchy of Luxembourg - Opinion on bill n° 7606 on introducing a series of measures concerning natural persons in the context of the fight against the SARS-CoV-2 virus \( COVID-19\) and amending 1. the amended law of 25 November 1975 concerning the supply to the public of medicinal products 2. the amended law of 11 April 1983 regulating the marketing and advertising of medicinal products](#) (*Commission consultative des Droits de l'Homme du Grand-Duché de Luxembourg Avis sur le projet de loi n°7606 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre le virus SARS-CoV-2 (COVID-19) et modifiant 1. la loi modifiée du 25 novembre 1975 concernant la délivrance au public des médicaments 2. la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments*), 09.06.2020.

<sup>9</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Green light for "COVID laws"](#) (*Feu vert pour les «lois COVID»*), 22.06.2020.

<sup>10</sup> Luxembourg, website of *Lëtzt Rise Up*, [Manifestation pour la justice](#), accessed on 23.06.2020.

<sup>11</sup> Luxembourg, RTL Today, [Friday's protest sanctioned by police](#), News press release on 05.06.2020.

<sup>12</sup> Luxembourg, Delano.lu, [Organisers issue protest guidelines](#), News press release on 05.06.2020.

<sup>13</sup> Luxembourg, RTL Today, [Kneeling down, Luxembourg protestors say no to racism in front of US embassy](#), News press release on 06.06.2020.

<sup>14</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (*Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments*) 25.06.2020.

been allowed in private places<sup>15</sup>). Masks (and their variations) are mandatory at all times in public transport and in places where social distancing of 2 meter cannot be observed (art. 3).<sup>16</sup>

If it is not possible to maintain physical distance between the person with a disability and the person accompanying him/her, the accompanying person is allowed to implement other health measures to prevent the spread of SARS-CoV-2 virus (Art.3(2))<sup>17</sup>. The obligation to wear a mask does not apply to people with disabilities who have a medical certificate justifying this exemption and who implement other sanitary measures to prevent the spread of the virus.

Fairs and shows are allowed if organized outdoors. The wearing of a mask is then compulsory for exhibitors and visitors when a distance of two meters cannot be respected. Furthermore, the distance of two meters does not apply between people who belong to the same household (Art.1 (5))<sup>18</sup>.

Restaurants, drinking places, catering rooms of accommodation establishments, consumer lounges, canteens and any other places which have been reopened are obliged to apply a number of measures. Each table can only accommodate a maximum of 10 people unless people belong to the same household; tables placed side by side are separated by a distance of at least 1.5 meters or, in the case of a shorter distance, by a barrier or a physical separation to limit the risk of infection. The wearing of a mask is compulsory if customers are not seated at the table. <sup>19</sup> (Art.1(3))<sup>20</sup>

Organisers and administration of establishments who violate the safety measures set in the act of 24 June 2020<sup>21</sup> face a fine up to 4000 euros. The maximum amount is doubled in case of a repeated violation.

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<sup>15</sup> Luxembourg, RTL news site, [Spontaneous events and public gatherings](#), Press release, 16.06.2020.

<sup>16</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures relating to sports, cultural activities and establishments open to the public, in the context of the fight against the Covid-19 pandemic](#) (Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les activités sportives, les activités culturelles ainsi que les établissements recevant du public, dans le cadre de la lutte contre la pandémie Covid-19), 25.06.2020.

<sup>17</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments) 25.06.2020.

<sup>18</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments) 25.06.2020.

<sup>19</sup> Luxembourg, Official site of the Government of Grand Duchy, [What changes with the "COVID-19 laws" for citizens](#) (Ce qui change avec les "lois COVID-19" pour les citoyens), Press release 24.06.2020.

<sup>20</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments) 25.06.2020.

<sup>21</sup> Luxembourg, [act of 24 June 2020 introducing a series of measures concerning natural persons in the context of the fight against the Covid-19 pandemic and amending the amended law of 11 April 1983 regulating the marketing and advertising medication](#) (Loi du 24 juin 2020 portant introduction d'une série de mesures concernant les personnes physiques dans le cadre de la lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments) 25.06.2020.

### 1.2.2 Education

The return back to school began on 25 May 2020 following special procedures, i.e. small groups nurseries (max. 5 children), rotation of shifts in primary and elementary schools (group A and B), etc. and lasted until 28 June 2020. On 29 June, groups in primary and elementary schools were joined again in one classroom until the end of the school year.<sup>22</sup> In the classrooms neither the distance of 2 meters nor the wearing of masks have to be maintained provided that hygienic rules are followed (washing and disinfection of hands, coughing in the sleeve, etc.).<sup>23</sup> However, distancing and masks are highly recommended (but remain optional) when contact with children outside school happens.

Vulnerable children have continued home schooling. The parents are supported with a special leave for children with disabilities.<sup>24</sup> Vulnerable teachers work from home.<sup>25</sup>

From 29 June 2020 teaching and care of pupils by specialized teachers (I-EBS) and other specialized staff is recommenced wherever possible.<sup>26</sup> Pupils with special needs who are integrated into regular education and who are cared for by the support teams for pupils with special needs (ESEB), benefit from this same care plan, regardless of whether they attend the school or the care facility.<sup>27</sup>

Since the beginning of the lockdown individual support has been used for children who do not have the necessary IT equipment at home or do not have an internet connection, schools try to find appropriate solutions in each situation.<sup>28</sup>

On 8<sup>th</sup> June 2020 final semester exams began at the University of Luxembourg and to most students they were taken remotely (except some cases of students of the medical department). Teachers had a choice of tools to offer to types of exams; oral via Webex, take-home exam, essay, paper, group work, etc. At the beginning of June the university also announced offering proctoring system during the exam that includes a videosurveillance with AI.<sup>29</sup> However, following the reaction of the national union of students explaining that the terms and conditions of collecting and storing data is not clearly defined, the university confirmed not using the proctoring system during the exam period.<sup>30</sup>

### 1.2.3 Work

Most companies have begun a gradual return of the employees to offices. The return to work is currently only possible following the security measures set in the country during the crisis. Each company follows own scenarios (rotations, prioritization of essential employees, favoring non

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<sup>22</sup> Luxembourg, Ministry of National Education, Children and Youth, [One step closer to normality: groups A and B together again](#) (*Un pas de plus vers la normalité : les groupes A et B de nouveau réunis*), Press release, 19.06.2020.

<sup>23</sup> Luxembourg, Ministry of National Education, Children and Youth, [One step closer to normality: groups A and B together again](#) (*Un pas de plus vers la normalité : les groupes A et B de nouveau réunis*), Press release, 19.06.2020.

<sup>24</sup> Luxembourg, Gouvernemental information portal Guchet.lu, [Family-related leave related to the Covid-19 pandemic covering the period from May 25, 2020 to July 15, 2020](#) (*Congé pour raisons familiales lié à la pandémie Covid-19 couvrant la période du 25 mai 2020 au 15 juillet 2020*).

<sup>25</sup> Luxembourg, Ministry of National Education, Children and Youth, [One step closer to normality: groups A and B together again](#) (*Un pas de plus vers la normalité : les groupes A et B de nouveau réunis*), Press release, 19.06.2020.

<sup>26</sup> Luxembourg, Ministry of National Education, Children and Youth, [Resumption of activities in schools and childcare facilities : Questions and Answers](#), 25.05.2020.

<sup>27</sup> Luxembourg, Ministry of National Education, Children and Youth, [Resumption of activities in schools and childcare facilities : Questions and Answers](#), 25.05.2020.

<sup>28</sup> Luxembourg, Ministry of National Education, Children and Youth, [Resumption of activities in schools and childcare facilities : Questions and Answers](#), 25.05.2020.

<sup>29</sup> Luxembourg, The University of Luxembourg, [Possible use of a tool to monitor exams remotely](#), News press release, 05.06.2020

<sup>30</sup> Luxembourg, The University of Luxembourg, [Exams - Frequently asked questions](#), 16.06.2020.

vulnerable groups, etc.) as long as they adhere to current national security and hygiene standards. The grand ducal decree of 17 April 2020<sup>31</sup> set a number of rules for companies to follow and have continued to apply in June 2020. Employers should limit employees who may be exposed to risks; employers should also inform and train their employees on the possible risks and the precautions to be taken. Furthermore, they should arrange workstations and other premises or workplaces following general security measures set in the country. Employers should therefore provide employees with individual and collective protective equipment and products (masks, hydroalcoholic gel, appropriate protective clothing, soap, disposable towels, etc.);

In its turn, an employer should ensure that their employees:

- respect the social distance (2 meters between people) and, if this is not possible;
- wear a mask or any other device to cover the nose and mouth, etc.

In June 2020, Luxembourgish trade unions drew attention to the need of the recognition of work of people in the cleaning and daycare sectors during the pandemic.<sup>32</sup> The two sectors were classified among the “essential” sectors (grand-ducal regulation of 18 March 2020). However, during the lockdown many of them continued working, often without appropriate protection (masks, disinfectants, gloves) up to 12 hours a day and 60 hours a week. In the open letter the trade unions demanded recognition of professions with perspectives for career development, an increase in salaries, and a COVID-19 bonus for employees working during the crisis.<sup>33</sup>

Since the beginning of the pandemic public transport has been rearranged to comply with new security measures: to protect the drivers, front doors were closed down (public transport became free of charge before and communication with the drivers is minimal), in some instances front seats behind the driver have been closed down and separation barrier (a plastic band) was set up to prohibit approaching the driver. Additionally, all drivers had to wear a mask at work. Since the end of June 2020 the bus drivers were exempt from wearing masks when a distance of 2 meters (established by separating barriers) was observed.<sup>34</sup>

In mid-June 2020, the government launched a campaign<sup>35</sup> to encourage residents and cross border commuters to shop locally. The Campaign Smile again<sup>36</sup> encourages general public to support local shops, stores, merchants and artisans that became particularly affected by the pandemic.

In June 2020 national stakeholders, including the Ministry of Economy, trade unions, etc. reached an agreement to continue supporting business particularly affected by the pandemic, while preserving as many jobs as possible<sup>37</sup>. With that regard, partial unemployment support has been extended until the end of 2020 to the following sectors:

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<sup>31</sup> Luxembourg, [grand-ducal decree of 17 April 2020 introducing a series of occupational safety and health measures in the fight against COVID-19](#) (*Règlement grand-ducal du 17 avril 2020 portant introduction d'une série de mesures en matière de sécurité et santé au travail dans le cadre de la lutte contre le COVID-19*)

<sup>32</sup> Luxembourg [More respect and better working conditions for employees and daycare sectors](#) (*Plus de respect et de meilleures conditions de travail pour les salariés des secteurs du nettoyage et du gardiennage*) Presse release

<sup>33</sup> Luxembourg [More respect and better working conditions for employees and daycare sectors](#) (*Plus de respect et de meilleures conditions de travail pour les salariés des secteurs du nettoyage et du gardiennage*) Presse release.

<sup>34</sup> Luxembourg, Official site of the Government of Grand Duchy, [What changes with the "COVID-19 laws" for citizens](#) (*Ce qui change avec les "lois COVID-19" pour les citoyens*), Press release 24.06.2020.

<sup>35</sup> Luxembourg, Official site of the Government of Grand Duchy, [Lex Delles presented the "smile again" awareness campaign](#) (*Lex Delles a présenté la campagne de sensibilisation "smile again"*), Press release 18.06.2020.

<sup>36</sup> Luxembourg, official site of [Smile again platform](#).

<sup>37</sup> Luxembourg, The Employment Development Agency (*L'Agence pour le développement de l'emploi*), [Agreement between the social partners concerning the conditions for granting short-time working within the](#)

- industrial sector; companies from this sector continue to benefit from the short-time unemployment scheme to be able to react to disturbances in international markets (e.g. supply problems).<sup>38</sup>
- companies in the hospitality, tourism and event sectors; companies in these vulnerable sectors benefit from simplified access to short-time working from structural sources, without limiting the number of employees concerned. Companies may resort to redundancies for economic reason within the maximum limit of 25% of their employees (compared to the total workforce listed on 30 June 2020) until 31 December 2020.<sup>39</sup> In case of new recruitment, companies prioritise people who have just been dismissed.<sup>40</sup>
- other economic sectors; companies can resort to short-time working from structural sources through simplified procedure, provided, however, not to make redundancies. The number of employees on partial unemployment may not exceed 25% of the total workforce (as of 30 June 2020) for the months of July and August, 20% of the total workforce for the months of September and October, as well as 15 % for the months of November and December 2020.<sup>41</sup>

#### 1.2.4 Access to justice

As of 2 June 2020, the Luxembourgish justice system has resumed its operation to normal. Due to the delays accumulated during the period of reduced service, the judicial administration has decided to extend the hearing schedule by more than two weeks, from 16 July to 3 August 2020.<sup>42</sup> In order to reduce the number of people in the corridors and the courtrooms, the summons for the hearings are issued in advanced scheduling, meaning that the parties, their lawyers, witnesses and experts are requested to appear at the exact times indicated on the summon. This practice is accompanied by appropriate sanitary measures and in particular by an obligation to respect social distancing as well as the wearing of masks within the court buildings.<sup>43</sup>

The president of the Superior Court of Justice communicated in the media that since mid-June protective glasses had been installed in many places in the courts. He confirmed that the confinement had no impact on the cases currently dealt with via written procedure. However, a backlog have

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[framework of the exit from the state of crisis](#) (*Accord entre les partenaires sociaux concernant les modalités d'octroi du chômage partiel dans le cadre de la sortie de l'état de crise*)

<sup>38</sup> Luxembourg, National information portal guichet.public.lu, [Partial unemployment during the economic recovery period \(valid until 31 December 2020\)](#) (*Chômage partiel pendant la période de relance économique (valable jusqu'au 31 décembre 2020)*).

<sup>39</sup> Luxembourg, National information portal guichet.public.lu, [Partial unemployment during the economic recovery period \(valid until 31 December 2020\)](#) (*Chômage partiel pendant la période de relance économique (valable jusqu'au 31 décembre 2020)*).

<sup>40</sup> Luxembourg, The Employment Development Agency (*L'Agence pour le développement de l'emploi*), [Agreement between the social partners concerning the conditions for granting short-time working within the framework of the exit from the state of crisis](#) (*Accord entre les partenaires sociaux concernant les modalités d'octroi du chômage partiel dans le cadre de la sortie de l'état de crise*)

<sup>41</sup> Luxembourg, National information portal guichet.public.lu, [Partial unemployment during the economic recovery period \(valid until 31 December 2020\)](#) (*Chômage partiel pendant la période de relance économique (valable jusqu'au 31 décembre 2020)*).

<sup>42</sup> Luxembourg, website of the Luxembourgish judiciary, [The judiciary continues the deconfinement and the reopening of services \(some only by appointment\) closed to the public since the month of March](#) (*La justice poursuit son déconfinement et procède à la réouverture des services (pour certains seulement sur rendez-vous) fermés au public depuis le mois de mars*), 22.05.2020.

<sup>43</sup> Luxembourg, website of the Luxembourgish judiciary, [The judiciary continues the deconfinement and the reopening of services \(some only by appointment\) closed to the public since the month of March](#) (*La justice poursuit son déconfinement et procède à la réouverture des services (pour certains seulement sur rendez-vous) fermés au public depuis le mois de mars*), 22.05.2020.

accumulated before the criminal courts, the Commercial Court and before the “*Justice de paix*” (i.e. courts competent for civil and commercial matters including payment orders and rents) where the courts work on the basis of appointments.<sup>44 45</sup>

### 1.2.5 Freedom of movement

Luxembourg has never closed its borders with its neighbouring countries<sup>46</sup>, and throughout the crisis has advocated for open borders and a well functioning Schengen zone as it is essential to the country’s economy. No entry requirement or quarantine has been applied for EU citizens and for holders of residence permit when entering the country.<sup>47</sup> On 3 July 2020 the Ministry of Foreign and European Affairs has announced that, in accordance with Council Recommendation on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction<sup>48</sup>, the Grand Duchy has adopted certain legislative amendments.<sup>49</sup> Accordingly, the general temporary entry restriction for third-country nationals has been extended until 15 September 2020. However, the specific categories of third-country nationals authorized to enter the territory of Luxembourg have been updated. These are, among others, (i) third-country nationals who hold long-term resident status or residence permit under EU or national law; (ii) health professionals, health researchers and care professionals for the elderly; (iii) frontier workers; (iv) seasonal workers in the agricultural sector; (v) people employed in the transport sector; (vi) passengers traveling for urgent and duly justified family reasons; (vii) persons wishing to seek international protection in Luxembourg or for other humanitarian reasons; (viii) third country nationals traveling for the purpose of study; (ix) highly qualified third country workers if their employment is economically necessary and their work cannot be postponed or performed from abroad. Furthermore, as of 1 July 2020 third country nationals residing in certain countries<sup>50</sup> are also authorized to enter the territory of Luxembourg.

The situation of cross-border workers is still essential and negotiations have been put forward to ensure that they can still maintain distance working where necessary. As a result, Luxembourg has reached an agreement with Belgium on 22 June 2020 to extend the homeworking scheme for Belgian cross-border workers until 31 August 2020, thereby avoiding double taxation within this time-period.<sup>51</sup> Similar agreement was reached with the French authorities on 24 June 2020.<sup>52</sup> The agreement between Luxembourg and Germany is extended automatically at the end of each month for one further month, provided that one of the parties does not cancel the agreement at least one week

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<sup>44</sup> Luxembourg, RTL 5 Minutes, [The Superior Court of Justice was not consulted](#) (*La Cour supérieure de justice n'a pas été consultée*), Press news release on 24.06.2020.

<sup>45</sup> Luxembourg, note: organizing court hearings via videoconference, even during the state of emergency, had been allowed only exceptionally and in duly justified cases of force majeure (see the website of the Luxembourgish Judiciary, [Administrative Tribunal - urgent circular in the context of Coronavirus](#) (*Tribunal Administratif - circulaire urgente dans le contexte du Coronavirus*), 10.04.2020.).

<sup>46</sup> Luxembourg, note: the borders were, however, closed by all neighbouring countries, thereby limiting freedom of movement to and from Luxembourg.

<sup>47</sup> Luxembourg, Politico, [Europe’s country-by-country travel restrictions explained – Luxembourg](#), News press release updated on 24.06.2020.

<sup>48</sup> [Council Recommendation on the temporary restriction on non-essential travel into the EU and the possible lifting of such restriction](#), Brussels, 30 June 2020.

<sup>49</sup> Luxembourg, website of the Ministry of Foreign and European Affairs, [Press release from the Ministry of Foreign and European Affairs on temporary immigration measures](#) (*Communiqué du ministère des Affaires étrangères et européennes au sujet des mesures temporaires en matière d'immigration*), 03.07.2020.

<sup>50</sup> Luxembourg, note: Algeria, Australia, Canada, China (subject to reciprocity at European Union level), Georgia, Japan, Montenegro, Morocco, New Zealand, Rwanda, Serbia, South Korea, Thailand, Tunisia, Uruguay; however, the list will be subject to analysis and regular updating by the Council of the EU.

<sup>51</sup> Luxembourg, website of the Luxembourgish tax administration, [Newsletter of 22 June 2020](#), 22.06.2020.

<sup>52</sup> Luxembourg, RTL Today, [Agreement found for French cross-border workers](#), News press release on 23.06.2020.



before the beginning of the next month. Accordingly, the homeworking scheme will continue for German cross-border workers in July as well.<sup>53</sup>

According to the statistics published by the Ministry of Foreign and European Affairs,<sup>54</sup> the number of asylum applications has dropped in April and no considerable increase in the numbers has been detected in May. In the course of May 2020, the authorities have received only 15 applications for international protection (for comparison, the number for the same month in 2019 was 140). At the same time, on 24 June 2020 the Ministry of Foreign and European Affairs announced that with the end of the state of emergency, it has adopted certain temporary immigration measures. These include, among others, an extension of the time-limit open for third-country nationals to request their residence permit and the extension of the validity period until 31 August 2020 of expiring residence permits.<sup>55</sup>

### 1.3 Impact of measures on particular groups

**Homeless people:** A parliamentary question of 10 June 2020 touched upon a group of vulnerable and chronically sick homeless persons aged between 60 and 67 without any social coverage who had been provided with accommodation until 15 June 2020 but then they would need to return to the street.<sup>56</sup> In response to a number of related questions, the Minister for Family and Integration confirmed that they had been keeping an eye on the problem and they had been in cooperation with the intervening civil organisation. Further, they stated that currently there was no systematic review of people living on the street, neither about their health status nor whether they are specifically vulnerable to becoming infected with COVID-19. With regard to the *Wanteraktioun*<sup>57</sup>, the day-and-night winter refuge for homeless people, the Minister noted that it had been opened until 30 June 2020 and an average of 130 people had slept there per night during the crisis.<sup>58</sup> As of 1 July 2020, the ground floor of the building will be transformed into a night shelter for the homeless. At the same time, the first floor of the building will be still available for patients displaying COVID-19 symptoms and awaiting a test.<sup>59</sup>

**Older people:** All the residents as well as the staff of nursing homes, in total more than 13,000 people, were offered voluntary testing for COVID-19. By 5 June, 5,017 out of the 5,463 residents in 49 nursing homes (91.8%) were tested. The results show that 10 of them were positive, that is 0.2%. At the same time, 6,408 out of 7,924 staff members were tested (80.9%), of which 12 were positive (0.2%). The results do not include the numbers of 3 nursing homes that conducted the tests themselves. The numbers are currently being processed by the Health Directorate and the final result has yet to be

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<sup>53</sup> Luxembourg, website of the Luxembourgish tax administration, [Newsletter of 6 April 2020](#), (*Newsletter du 6 avril 2020*), 06.04.2020.

<sup>54</sup> Luxembourg, website of the Ministry of Foreign and European Affairs, [Statistics on international protection in the Grand Duchy of Luxembourg in May 2020](#) (*Statistiques concernant la protection internationale au Grand-Duché de Luxembourg mois de mai 2020*), 12.06.2020.

<sup>55</sup> Luxembourg, website of the Ministry of Foreign and European Affairs, [Communication by the Ministry of Foreign and European Affairs concerning temporary immigration measures](#), 24.06.2020.

<sup>56</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), [Parliamentary question n° 2367 by Mr Paul Galles concerning the situation of vulnerable homeless people](#) (*Question N°2367 de Monsieur Paul Galles concernant Situation des sans-abri vulnérables*), 10.06.2020.

<sup>57</sup> Luxembourg, website of Caritas Luxembourg, [Wanteraktioun](#), accessed on 24.06.2020.

<sup>58</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), Parliamentary question n° 2367: Situation of vulnerable homeless people (*Situation des sans-abri vulnérables*), [Written response from Ms. Paulette Lenert, Minister of Health, Ms. Corinne Cahen, Minister of Families and Integration](#) (*Réponse écrite de Madame Paulette Lenert, Ministre de la Santé, Madame Corinne Cahen, Ministre de la Famille et de l'Intégration*), 11.06.2020.

<sup>59</sup> Luxembourg, RTL Today, ["Wanteraktioun" for the homeless is extended to 30 June](#), News press release on 28.05.2020.

integrated into the official database.<sup>60</sup> In respect of the regulations on visiting care homes, a patient advocacy group, *Patiente Verriedung asbl* has demanded clearer guidelines in their open letter to the Minister of Health and the Minister of Families and Integration on 11 June 2020.<sup>61</sup> They argued that each facility seems to interpret the relevant measures in its own way, visits are difficult to arrange and many times requirements of visits are being described as too harsh or cumbersome.<sup>62</sup> On 16 June 2020 in a joint communication by the Ministry of Health and the Ministry of Family, the Integration and the Grand Region,<sup>63</sup> it was announced that in view of the evolution of the deconfinement and the near end of the state of emergency, the ministers decided to lighten the recommendations relating to visits to nursing homes for the elderly. The new recommendations were published on 22 June 2020 (in force as of 25 June 2020)<sup>64</sup> confirming that family visits, access by health professionals as well as residents' exits from the facilities are no longer subject to the strict earlier recommendations (which were, among others, limitation to maximum 2 visitors, presence of a staff member during the visit, etc.).<sup>65</sup> Accordingly, as of 25 June 2020 only the general recommendations apply to visits, among others, keeping social distance as much as possible and wearing masks.<sup>66</sup>

Women: On 11 June 2020 the Ministry of Gender Equality held a press conference about the 2019 annual report of the Committee responsible for monitoring domestic violence in Luxembourg.<sup>67</sup> In the course of that event the minister highlighted that the already existing collaboration with the police, the judiciary and the victim support services had been reinforced during the COVID-19 crisis in order to fight domestic violence. From the start of the state of emergency, a crisis management system has been put in place to avoid a substantial increase in domestic violence. The system notably provided for (i) weekly monitoring of the evolution of domestic violence, (ii) development of the violence.lu information site (with a FAQ "Domestic violence and COVID-19" in Luxembourgish, Portuguese, French

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<sup>60</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg (*Chambre des Députés de Grand Duché de Luxembourg*), Parliamentary question n° 2137: Coronavirus tests in nursing homes (*Tests du coronavirus dans les structures d'accueil pour personnes âgées et maisons de soins*), [Joint response from the Minister of Health and the Minister of Families and Integration](#) (*Réponse commune de Madame la Ministre de la Santé et de Madame la Ministre de la Famille et de l'Intégration*), 05.06.2020.

<sup>61</sup> Luxembourg, *Patiente Verriedung asbl*, [Public letter regarding the right of visitation in nursing homes](#) (*Öffentleche Bréif iwert d'Besuchsrecht an den Alters-an Pflègeheemer*), 11.06.2020.

<sup>62</sup> Luxembourg, RTL Today, [Patient advocacy group demands guidelines for visiting rights](#), News press release on 11.06.2020.

<sup>63</sup> Luxembourg, Luxembourgish Government (*Gouvernement Luxembourgeois*), [Corinne Cahen and Paulette Lenert reiterate the correct application of the recommendations relating to visits and outings in accommodation facilities for the elderly and announce new reductions for the end of the state of crisis](#) (*Corinne Cahen et Paulette Lenert rappellent la bonne application des recommandations relatives aux visites et aux sorties dans les structures d'hébergement pour personnes âgées et annoncent de nouveaux allègements pour la fin de l'état de crise*), 16.06.2020.

<sup>64</sup> Luxembourg, Ministry of Family, Integration and the Great Region, [Guideline for managers of accommodation structures for the elderly, following the publication of "Temporary health recommendations from the Directorate of Health for natural persons in the context of the health crisis linked to Covid-19"](#) (*Ligne de conduite pour les gestionnaires des structures d'hébergement pour personnes âgées, suite à la publication des « Recommandations sanitaires temporaires de la Direction de la santé à l'attention des personnes physiques dans le cadre de la crise sanitaire liée au Covid-19 »*), 22.06.2020.

<sup>65</sup> Luxembourg, Ministry of Family, Integration and the Great Region, [Visits to structures for the elderly as part of progressive deconfinement](#) (*Visites dans les structures pour personnes âgées dans le cadre du déconfinement progressif*), 20.05.2020.

<sup>66</sup> Luxembourg, Ministry of Health, [Temporary health recommendations of the directorate of health for the attention of physical persons in the context of the COVID-19 health crisis](#) (*Recommandations sanitaires temporaires de la direction de la santé à l'attention des personnes physiques dans le cadre de la crise sanitaire liée au COVID-19*), 22.06.2020.

<sup>67</sup> Luxembourg, website of the Grand Ducal Police, [Domestic violence: Taina Bofferding updates on recent developments and aid measures](#) (*Violence domestique: Taina Bofferding fait le point sur les récentes évolutions et les mesures d'aide*), 11.06.2020.

and English languages)<sup>68</sup>, (iii) setting up a Helpline<sup>69</sup>, and (iv) the maintenance of an effective expulsion system. The evictions and police interventions during the acute phase of the COVID-19 crisis have so far shown no substantial increase compared to the monthly figures of previous years.<sup>70</sup>

## 2 Selected issues emerging during the COVID-19 crisis

### 2.1 Xenophobic speech, acts of harassment and violent attacks

There have been no incidents of xenophobic speech, acts of harassment and violent attacks since the outbreak of virus in March 2020 in Luxembourg. No further events were accounted by civil right organisations, equality bodies, ombudspersons.

### 2.2 Infringement of privacy and/or data protection rights

No government-approved contact tracing application<sup>71</sup> has yet been applied to this date in Luxembourg, however, the question became a hotly debated topic within the Grand Duchy. In response to several related parliamentary questions, various members of the government have confirmed that so far the government has not been using, and is not planning to use contact tracing applications.<sup>72</sup> However, in her media appearance the Minister of Health implied that such an app could be created in Luxembourg within a short time if it was decided by the government. Touching upon the subject, the National Ethics Commission have invited the government in its opinion to carefully consider the idea of developing such an app, by laying down five essential principles to be taken into account during the process.<sup>73</sup> Accordingly, the application should be voluntarily installed and able to be uninstalled at any time. It should be limited in time, in terms of its application and also in terms of the related data storage. Further, the app should precisely limit the data that are strictly necessary for its purpose. Lastly, the application should be certified by a competent authority, after having consulted the National Commission for Data Protection.<sup>74</sup>

On 11 June 2020 the National Commission for Data Protection (CNPD) has published its latest recommendations on the processing of personal data by private and public entities in the context of

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<sup>68</sup> Luxembourg, Luxembourgish government, violence.lu website, [F.A.Q. - COVID19 and Domestic Violence](#), accessed on 26.06.2020.

<sup>69</sup> Luxembourg, Luxembourgish government, [website of the domestic violence Helpline](#), accessed on 26.06.2020.

<sup>70</sup> Luxembourg, website of the Grand Ducal Police, [Domestic violence: Taina Bofferding updates on recent developments and aid measures](#) (*Violence domestique: Taina Bofferding fait le point sur les récentes évolutions et les mesures d'aide*), 11.06.2020.

<sup>71</sup> Luxembourg, note: although no government-approved tracing app is used in Luxembourg at the moment, the Germany-based Robert Koch-Institute has made its tracing app available in other European countries, including Luxembourg, see RTL Today, [German coronavirus tracing app now available in Luxembourg](#), News press release, 25.06.2020.

<sup>72</sup> Luxembourg, Parliament of the Grand Duchy of Luxembourg, Parliamentary question n° 2228, [Joint response from Mr Xavier Bettel, Minister of Communications and Media, of Mrs Paulette Lenert, Minister of Health and of Mrs Sam Tanson, Minister of Justice on "WHO Covid-19 Symptom Assessment Application"](#) (*Réponse commune de Monsieur Xavier Bettel, Ministre des Communications et des Médias, de Madame Paulette Lenert, Ministre de la Santé et de Madame Sam Tanson, Ministre de la Justice à la question au sujet « Application d'évaluation des symptômes de la Covid-19 de l'OMS »*), 16.06.2020.

<sup>73</sup> Luxembourg, website of the National Ethics Commission, [Opinion of the National Ethics Commission \(C.N.E.\) on technological aids in the fight against the SARS-CoV-2 coronavirus pandemic](#) (*Prise de position de la Commission Nationale d'Éthique (C.N.E.) sur les aides informatiques dans la lutte contre la pandémie du Coronavirus SARS-CoV-2*), accessed on 26.06.2020.

<sup>74</sup> Luxembourg, Paperjam, [Government urged to consider computer tracing](#) [Government urged to consider computer tracing](#), (*Le gouvernement invité à envisager le traçage informatique*), news press release on 02.06.2020.

the health crisis. The CNPD emphasised that under the applicable laws, an employee must in principle inform his/her employer if suspecting to be exposed to the virus. Under normal circumstances, when an employee is ill, he/she is obliged to inform the employer only about his/her incapacity to work, without providing any further information on the nature of the illness. In the context of a pandemic, however, the employee's obligation includes providing information about his/her contamination as well. At the same time, if an employee works from home or in an isolated manner without being in contact with his/her colleagues or the public, the employee does not need to provide this information to the employer. Further, in respect of the data processing by employer, the CNPD put forward that taking the temperature of visitors and employees without recording the relevant data linked to the identity of the data subject did not constitute data processing as defined by the GDPR. It would be otherwise, if the employer were to create a file containing all the temperatures taken and the data concerning the identity of the controlled persons. Lastly, The CNPD reiterated that only the competent healthcare professionals might collect, implement and access notes or healthcare questionnaires from employees containing data relating to their state of health or information concerning, in particular, their family, their living conditions or their possible movements.<sup>75</sup>

### **2.3 Spread of disinformation online**

Disinformation online with regard to pandemic has not taken up in Luxembourg. Nonetheless, the Luxembourg Safer Internet Centre has extended its raising awareness campaign "*#checkyourfacts: Gleeft net alles um Internet!*" into 2020 thematic fact sheet<sup>76</sup>. In June 2020, a factsheet has been developed by the Press Council, that explained fake news in the media, amplified by the accelerated information cycle, and the risks to press freedom.

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<sup>75</sup> Luxembourg, National Commission for Data Protection, [Coronavirus \(COVID-19\): Recommendations by the CNPD on the processing of personal data in the context of a health crisis](#), 11.06.2020.

<sup>76</sup> Luxembourg. Bee Secure platform, [Misinformation in the media](#) (*La désinformation dans les médias*), 29.06.2020.