

# Coronavirus pandemic in the EU – Fundamental Rights Implications

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

## 1.1 Emergency laws/states of emergency

The government has adopted several “COVID-laws” since the beginning of the health crisis. The one currently in force, the act of 17 July 2020<sup>1</sup> contains a set of rules, among others, on public and private gatherings, wearing of facemasks, quarantine obligation, data collection and fines. During the last two months, this law had been amended by act of 23 September 2020<sup>2</sup> and subsequently by the act of 29 October 2020.<sup>3</sup>

The act of 29 October 2020 introduced several amendments strengthening the ongoing security measures, because of the dramatic increase in the number of infections in Luxembourg in the second half of October. A curfew from 11 p.m. to 6 a.m. has been put in place until 30 November 2020. Exceptions can be made from the curfew obligation, among others, for travel to work and health emergencies. For private gatherings, the “+4” rule applies, or in other words, citizens can accommodate a maximum of four more people in their homes. Wearing a mask is compulsory if there are more than four persons present, whether in a closed place (public, private or professional meetings) or in open air. A maximum of 4 people per table and a maximum of 100 customers can be welcomed in restaurants or bars at the same time. The closing time for restaurants and drinking establishments is brought forward from midnight to 11 p.m. Gatherings of more than 100 people are prohibited, however, exceptions can be made for markets and for exercising the right to demonstrate. For a gathering of 10 to 100 people, indoors or outdoors, all people must wear a face mask and be seated (with a minimum distance of 2 meters). Exceptions are foreseen, among others, for funerals, markets or museums. A limitation of the number of customers is put in place in commercial areas of more than 400 square meters (i.e. one customer per 10 square meters.) The penalties for breaching the security measures have been revised as well. The minimum penalty for individuals was increased to 100 euros, which can reach a maximum of 500 euros. These new measures, except the curfew, will be in force until 31 December 2020.<sup>4</sup>

Meanwhile, administrative fines were imposed on cafés in Luxembourg for not complying with the applicable rules, in particular, for not ensuring that clients are wearing face masks and are seated

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<sup>1</sup> Luxembourg, [act of 17 July 2020 introducing a series of measures to fight the Covid-19 pandemic and amending the amended law of 25 November 1975 concerning the delivery to the public of medicinal products and the amended law of 11 April 1983 regulating the marketing and advertising of medicinal products](#) (*loi du 17 juillet 2020 portant introduction d’une série de mesures de lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 25 novembre 1975 concernant la délivrance au public des médicaments et la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché et de la publicité des médicaments*).

<sup>2</sup> Luxembourg, [act of 23 September 2020 amending the amended law of 17 July 2020 on measures to combat the Covid-19 pandemic](#) (*loi du 23 septembre 2020 modifiant la loi modifiée du 17 juillet 2020 sur les mesures de lutte contre la pandémie Covid-19*).

<sup>3</sup> Luxembourg, [act of 29 October 2020 amending \(1\) the amended act of 17 July 2020 on measures to combat the Covid-19 pandemic, \(2\) the act of 8 March 2018 relating to hospitals and hospital planning, \(3\) the act of 23 September 2020 laying down measures concerning the holding of meetings in companies and other legal persons](#) (*loi du 29 octobre 2020 modifiant (1) la loi modifiée du 17 juillet 2020 sur les mesures de lutte contre la pandémie Covid-19, (2) la loi du 8 mars 2018 relative aux établissements hospitaliers et à la lanification hospitalière, (3) la loi du 23 septembre 2020 portant des mesures concernant la tenue de réunions dans les sociétés et dans les autres personnes morales*).

<sup>4</sup> Luxembourg, website of the parliament, [Green light for new COVID measures](#) (*Feu vert pour les nouvelles mesures COVID*), 29.10.2020.

while eating or drinking. A few cases even reached the Administrative Court.<sup>5 6</sup> One of these cases concerned forced isolation: The plaintiff have returned from abroad on 15 September 2020 and took a PCR test on medical prescription. The test result was positive although he produced no symptoms whatsoever. Then he took a second test on 17 September which showed negative result. Nonetheless, the Director of Health placed him in forced isolation for a renewable period of two weeks. The plaintiff challenged the order before the Administrative Court on 21 September by questioning the reliability of the test and arguing that such unnecessary measure would severely restrict his freedom of movement. Furthermore, he requested the court to refer questions to the Constitutional Court regarding the constitutionality of the forced isolation measures. The court dismissed the plaintiff's claim, but at the same time it reduced the two-week isolation to 10 days, based on the provisions of the new "COVID-law" that had entered into meanwhile. The court also dismissed the plaintiff's claim to refer his questions to the Constitutional Court as his request missed the relevant legal arguments.<sup>7</sup>

## 1.2 Freedom of assembly

Article 4 of the act of 17 July 2020<sup>8</sup> specifies the rules on public and private gatherings. During the period of 1 September to 29 October 2020, gatherings that accommodated more than ten people at home or in the occasion of private events, either in a closed place or open air, had been prohibited. Persons who are part of the household were not taken into account for the count. Any gathering bringing together more than ten people simultaneously was subject to the condition that people were seated while observing a minimum distance of two meters. If the distance of two meters between the seats could not be respected, the wearing of facemask was compulsory. The obligatory seating did not apply to the actors of religious, cultural and sports events during the exercise of their activities and to persons participating in school and extracurricular activities. Moreover, the obligation to be seated did not apply when exercising the freedom to demonstrate, nor to funerals, fairs or markets (i.e. where the public circulated), but the wearing of facemask was compulsory during these events.

The act of 17 July 2020 was recently amended by act of 29 October 2020.<sup>9</sup> According to the new rules, as of 30 October 2020 private gatherings, either open air or in a closed place, can

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<sup>5</sup> Luxembourg, website of the judiciary, [Administrative Tribunal of the Grand Duchy of Luxembourg, case n° 44987](#) (*Tribunal administratif du Grand-Duché de Luxembourg, affaire n° 44987*) on 21.09.2020; [Administrative Tribunal of the Grand Duchy of Luxembourg, case n° 45012](#) (*Tribunal administratif du Grand-Duché de Luxembourg, affaire n° 45012*) on 28.09.2020; [Administrative Tribunal of the Grand Duchy of Luxembourg, case n° 45061](#) (*Tribunal administratif du Grand-Duché de Luxembourg, affaire n° 45061*) on 09.10.2020.

<sup>6</sup> Luxembourg, RTL Today, [Café manager's appeal of €1,250 fine unjustified](#), news press release on 30.09.2020; RTL Today, [8,000 Euro Corona fine against café manager repealed](#), news press release on 09.10.2020; website of the judiciary, [Non-compliance with the wearing of a mask by customers – the Administrative Court confirms the administrative fine against the manager of a bar in Luxembourg City](#) (*Non-respect du port d'un masque par les clients - le Tribunal Administratif confirme l'amende administrative contre le gérant d'un bar à Luxembourg-Ville*), 29.09.2020.

<sup>7</sup> Luxembourg, website of the judiciary, [Administrative Court of the Grand Duchy of Luxembourg, case n° 45008](#) (*Tribunal administratif du Grand-Duché de Luxembourg, affaire n° 45008*), 24.10.2020.

<sup>8</sup> Luxembourg, [act of 17 July 2020 introducing a series of measures to fight the Covid-19 pandemic and amending the amended law of 25 November 1975 concerning the delivery to the public of medicinal products and the amended law of 11 April 1983 regulating the marketing and advertising of medicinal products](#) (*loi du 17 juillet 2020 portant introduction d'une série de mesures de lutte contre la pandémie Covid-19 et modifiant la loi modifiée du 25 novembre 1975 concernant la délivrance au public des médicaments et la loi modifiée du 11 avril 1983 portant réglementation de la mise sur le marché de la publicité des médicaments*).

<sup>9</sup> Luxembourg, [act of 29 October 2020 amending \(1\) the amended act of 17 July 2020 on measures to combat the Covid-19 pandemic, \(2\) the act of 8 March 2018 relating to hospitals and hospital planning, \(3\) the act of 23 September 2020 laying down measures concerning the holding of meetings in companies and other legal persons](#) (*loi du 29 octobre 2020 modifiant (1) la loi modifiée du 17 juillet 2020 sur les mesures de lutte contre la pandémie Covid-19, (2) la loi du 8 mars 2018 relative*

accommodate four people apart from the members of the receiving household. Gatherings from ten to a hundred people are subject to the condition that people wear masks and they are seated with a minimum distance of two meters. The two-meter distance does not apply to people from the same household. These rules apply to all types of gatherings, including religious and cultural events. When calculating the 100 people, cult actors, supervisors or performers of the event are not taken into account. Any gathering exceeding one hundred people is prohibited.

The obligatory seating arrangements and the limitation of 100 people do not apply to markets and to gatherings which aim at exercising the right to demonstrate. Since the beginning of the crisis, no restrictions have been adopted in respect of demonstrations, however, the wearing of face mask is obligatory during these events. In its opinion no. 11/2020<sup>10</sup> the Consultative Commission on Human Rights (CCDH) recalls the importance of the right to demonstrate, which must be guaranteed in all circumstances. The CCDH referred to its earlier opinion no. 5/2020, in which it had found necessary "to ensure that in the future the exercise of this right is guaranteed, even in the event that it turns out that stricter containment measures should be taken because of a possible worsening of the health situation." The CCDH welcomed the latest amendments clarifying that the restrictions on gatherings would not apply to freedom to demonstrate. However, the CCDH remained concerned by the fact that it will not be possible to exercise the right to demonstrate between 11 p.m. and 6 a.m. In practice, a few demonstrations have been held during the last two months in Luxembourg.<sup>11</sup>

The police had to intervene several times to stop illegal gatherings during this period. For example, on 13 September 2020 a private gathering had to be interrupted because there had been more people there than allowed and because they had not complied with the applicable hygiene regulations. All those present were warned with a fee.<sup>12</sup> On 17 October 2020 a gathering was reported in the forest with more than 200 people on site. The gathering was probably organized in advance via social media from the neighbouring countries. The identities of more than 50 people were recorded, being found that most of the guests were non-residents.<sup>13</sup>

### 1.3 Freedom of movement

During the COVID-19 pandemic, Luxembourg has never closed its borders shared with the three neighbouring countries.<sup>14</sup> However, with certain well-defined exceptions, third-country nationals are not allowed to enter the country.<sup>15</sup> These exceptions include (i) third-country nationals who have long-term resident status or a residence permit under EU or national law or who hold a long-term national visa; (ii) health professionals, health researchers and elderly care professionals; (iii) frontier

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aux établissements hospitaliers et à la lanification hospitalière, (3) la loi du 23 septembre 2020 portant des mesures concernant la tenue de réunions dans les sociétés et dans les autres personnes morales).

<sup>10</sup> Luxembourg, website of CCDH, [Opinion 11/2020 on Bill n° 7683](#) (Avis 11/2020 sur le projet de loi n°7683), 27.10.2020.

<sup>11</sup> Luxembourg, for example: [National demonstration for the right to decent and affordable housing on 10 October 2020](#) (Manifestation nationale pour le droit à un logement digne et abordable le 10 octobre 2020), press release of OGBL on 08.10.202

<sup>12</sup> Luxembourg, website of the Grand Ducal Police, [Breach of the corona regulations](#) (Verstöße gegen die Corona-Regelungen), 15.09.2020.

<sup>13</sup> Luxembourg, website of the Grand Ducal Police, [Illegal parties and violating COVID laws](#) (Illegale Partys und Verstöße gegen die COVID-Gesetzgebung), 18.10.2020.

<sup>14</sup> Luxembourg, website of the Government, [Europe, borders and a virus](#) (L'Europe, les frontières et un virus)m interview with Jean Asselborn, Minister of Foreign and European Affairs, published on 28.08.2020.

<sup>15</sup> Luxembourg, Articles 1, 2 and 2bis of [grand-ducal regulation of 20 June 2020 relating to the duration of the prohibition and the scope of the exceptions provided for by article 2 of the act of 20 June 2020 introducing certain temporary measures relating to the application of the amended act of 29 August 2008 on the free movement of people and immigration](#) (Règlement grand-ducal du 20 juin 2020 relatif à la durée de l'interdiction et la portée des exceptions prévues par l'article 2 de la loi du 20 juin 2020 portant introduction de certaines mesures temporaires relatives à l'application de la loi modifiée du 29 août 2008 sur la libre circulation des personnes et l'immigration).

workers; (iv) seasonal workers in agriculture; (v) persons employed in the transport sector; (vi) members of the diplomatic corps, staff of international organizations and persons invited by these international organizations whose physical presence is required for the proper functioning of these organizations, military personnel, personnel in the field of development cooperation and humanitarian aid, and civil protection personnel in the exercise of their respective functions; (vii) passengers in transit; (viii) passengers traveling for urgent and duly justified family reasons; (ix) sailors; (x) people wishing to apply for international protection in Luxembourg or arriving for other humanitarian reasons; (xi) third country nationals traveling for study purposes; and (xii) highly qualified third country workers if their employment is economically necessary and their work cannot be postponed or carried out from abroad. Furthermore, third country nationals having their residence in certain countries (i.e. Australia, Canada, China (subject to reciprocity at European Union level), Georgia, Japan, New Zealand, Rwanda, South Korea, Thailand, Tunisia, Uruguay)<sup>16</sup> are also authorized to enter the territory of Luxembourg.

On 14 September 2020 Ministry of Foreign and European Affairs announced<sup>17</sup> that as of that day the short-stay visits by an EU citizen's family member will be exempt from travel restrictions to the Grand Duchy of Luxembourg. In this respect, family members are (i) the spouse or registered partner, and (ii) the direct descendant of the EU citizen or his/her spouse or registered partner, if the child is under 21 years old. Besides, short-stay visits by a family member of a third-country national who is lawfully residing in Luxembourg will be exempt from travel restrictions as well. In this respect, family members are (i) the spouse or registered partner, and (ii) the direct descendant of the Luxembourg resident who is a third-country national or of his/her spouse or registered partner, if the child is under 18 years of age. Likewise, short-stay visits by persons whose life partner resides in Luxembourg will be exempt from travel restrictions applicable at third-country nationals. Those concerned will have to, on the one hand, make a formal declaration before the Passport, Visa and Legalization Office and, on the other hand, provide proof of the existence of a long-term relationship and regular contacts.

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

### **2.1 Work**

The crisis has severely hit Luxembourg's steadily growing employment market.<sup>18</sup> Since the lockdown, the unemployment rate has increased significantly, from 5.4% in 2019 to 6.5%.<sup>19</sup> Although some statistics indicate that after the initial decrease, positive tendencies have already commenced

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<sup>16</sup> Luxembourg, as of 9 November 2020 residents of Canada, the Republic of Georgia and Tunisia will no longer be allowed to enter the country, see [Entry ban for travellers from Canada, Georgia and Tunisia into Luxembourg](#), news press release on 06.11.2020.

<sup>17</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*), 14.09.2020.

<sup>18</sup> Luxembourg, page 32 of [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020.

<sup>19</sup> Luxembourg, STATNEWS N° 33, [The changing world of work - Work and social cohesion report 2020](#) (*Le monde de l'emploi en mutation - Rapport travail et cohésion sociale 2020*), 15.10.2020.

in respect of creating new jobs<sup>20 21</sup>, at the same time, important actors of the national economy have predicted massive staff cuts in the near future. Possible reduction of staff has been announced in the steel industry,<sup>22</sup> in the printed press<sup>23</sup> or in the aviation industry<sup>24</sup>, caused at least partly by the pandemic. Trade unions are playing an essential role in the ongoing negotiations<sup>25 26</sup>, and there is a clear intention communicated by the competent parliamentary committees (i.e. employment and economy) to elaborate social plans in these sectors.<sup>27</sup>

In October 2020 STATEC Luxembourg (the National Institute of Statistics and Economic Studies) has issued its report on the national employment market.<sup>28</sup> With an accent on the COVID-19 crisis and its consequences on the labour market, the report analyses, besides general tendencies, the challenges of young people (see more in section 3.1 below), the remuneration of frontline workers, the situation of cross-border workers and the teleworking scheme.

The efforts of the **frontline workers** (people working in the health sector, in cleaning services or in logistics) have been considered indispensable since the beginning of the crisis. Touching upon the issue of the *right to fair remuneration*, the analysis concluded that the frontline workers' remuneration corresponded only to 90% of the average salary awarded to non-essential workers during the same period.<sup>29 30</sup> On 29 October 2020 a new law adopted to amend the Labour Code, allowing the increase of working hours for certain essential workers to a maximum of 12 hours per day and 60 hours per week.<sup>31</sup> The new law was triggered by the alarming signs that more and more people working in these sectors have become infected with COVID-19 and/or placed in quarantine. In these sectors, the employers will have to request special authorisation from the Ministry of Labour to be able to increase the working hours of their employees beyond the regular legal working hours. The measure will expire on 31 December 2020.

Currently, one of the most debated issues in Luxembourg is the envisaged expansion of **teleworking**. According to statistical data, 52% of people working in Luxembourg have been able to work from home remotely during the crisis<sup>32</sup> which contributed to the safeguarding of the *right to safe and healthy working conditions*. The benefits of teleworking became immediately visible, at the same

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<sup>20</sup> Luxembourg, RTL 5 minutes, [Luxembourg is a "machine to create jobs"](#) (*Le Luxembourg est "une machine à créer des emplois"*), News press release on 08.10.2020.

<sup>21</sup> Luxembourg, website of the Employment Development Agency (ADEM), [The number of job seekers continues to decline](#) (*Le nombre de demandeurs d'emploi continue à reculer*), 21.09.2020.

<sup>22</sup> Luxembourg, RTL today, [570 jobs at risk due to the coronavirus crisis](#), News press release on 10.09.2020.

<sup>23</sup> Luxembourg, RTL 5 minutes, [80 jobs are threatened at Editions Saint-Paul](#) (*80 emplois sont menacés aux Editions Saint-Paul*), news press release on 17.09.2020.

<sup>24</sup> Luxembourg, Radio 100.7, [Luxair Group: Up to 600 jobs could be cut](#) (*Grupp Luxair: Bis zu 600 Aarbechtsplaze kéinten ofgebaut ginn*), news press release on 08.10.2020.

<sup>25</sup> Luxembourg, Press release, website of the LCGB trade union, [Faced with an accumulation of crises, the LCGB claims a Steel Tripartite!](#) (*Face à une accumulation de crises, le LCGB revendique une Tripartite Sidérurgie!*), 10.09.2020.

<sup>26</sup> Luxembourg, Press release, website of the OGBL trade union, [The OGBL will ensure that no employee loses their job](#) (*L'OGBL veillera à ce qu'aucun salarié ne perde son emploi*), 10.09.2020.

<sup>27</sup> Luxembourg, website of the parliament, ["The crisis affects all young people"](#) (*"La crise touche l'ensemble des jeunes"*), 24.09.2020.

<sup>28</sup> Luxembourg, [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020

<sup>29</sup> Luxembourg, Chapter 2.4 of [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020

<sup>30</sup> Luxembourg, RTL today, [Non-essential employees earn more than frontline workers](#), news press release on 15.10.2020.

<sup>31</sup> Luxembourg, [act of 29 October 2020 temporarily derogating from Article L. 211-12 of the Labor Code](#) (*loi du 29 octobre 2020 portant dérogation temporaire à l'article L. 211-12 du Code du travail*).

<sup>32</sup> Luxembourg, Chapter 2.5 of [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020

time, drawing attention to the uncertainties behind this legal concept. On 11 September 2020 LCGB, one of the major trade unions published the opinion of CES (Economic and Social Council of Luxembourg, the government's permanent advisory body in economic and social matters) on teleworking.<sup>33</sup> The opinion proposes to update the applicable teleworking agreement achieved by social partners by making it easier to adapt to the current situation, as well as to the challenges of digitalisation. CES emphasised that the adapted social agreement should reflect, among others, on issues such as providing a more precise definition of teleworking, the voluntary nature of teleworking, the necessity of written documentation when performing telework, the respect for the privacy of the teleworker, the providing of the necessary technical equipment, the clarification of health and safety regulations, the guarantees of equal treatment and the special situation of cross-border commuters.<sup>34</sup> On 20 October 2020, the Convention on Teleworking<sup>35</sup> was signed by the relevant social partners, containing important novelties in line with the CES opinion. Furthermore, CES was requested to draft an opinion on the right to disconnect, which will gain more relevance in the context of teleworking. A bill on the right to disconnect will be introduced during the first quarter of 2021.<sup>36</sup>

Coming from the specificities of the country, the situation of the **cross-border workers** has been in the spotlight as well. Statistics show that the lockdown period had a hit on the job situation of cross-border workers<sup>37</sup> and that their recovery appears to be slower compared to that of residents.<sup>38</sup> This resulted in a rather exceptional situation in Luxembourg: the growth in the number of employed residents was more dynamic than that of cross-border workers (which latter figure is traditionally much higher than that of residents).<sup>39</sup> The most important support to cross-border workers manifested in Luxembourg's effort to reach bilateral agreements with all neighbouring countries, allowing teleworking without being exposed to double taxation. At this moment, agreements have been concluded with all three neighbouring countries until 31 December 2020, ensuring that cross-border workers carrying out work from home continue to be affiliated to the Luxembourg social security system.

There has been a lively public debate around the so-called **partial quarantine policy for teachers**. Having a bearing on *safe and healthy working conditions*, the debate started with a social media post revealing that a secondary school teacher was allowed by the health department to continue teaching after having been placed in quarantine as a person potentially infected with COVID-19. The policy triggered a parliamentary question<sup>40</sup> and was heavily criticised by the National Teachers Union (*Syndicat National des Enseignants* or *SNE*).<sup>41</sup> The SNE emphasised that they had no

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<sup>33</sup> Luxembourg, website of the LCGB trade union, [CES opinion on telework](#), 11.09.2020.

<sup>34</sup> Shortly thereafter, on 22 September 2020 an MP submitted a motion on teleworking, requesting the parliament, among others, to prepare to proceed with the elaboration of an adapted legal framework within the Labour Code which would regulate the fundamental principles governing teleworking and to submit them to a preliminary debate before the parliament, see at [motion of Marc Baum MP](#), 22.09.2020.

<sup>35</sup> Luxembourg, [Agreement of 20 October 2020 relating to the legal regime of teleworking](#) (*Convention du 20 octobre 2020 relative au regime juridique du teletravail*), 20.10.2020.

<sup>36</sup> Luxembourg, website of the parliaments, [A public debate on teleworking](#) (*Un débat public sur le télétravail*), 19.10.2020.

<sup>37</sup> Luxembourg, Chapter 2.1.3 of [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020

<sup>38</sup> Luxembourg, RTL today, [Residents more likely to find jobs than cross-border workers](#), news press release on 08.09.2020

<sup>39</sup> Luxembourg, Chapter 2.1.3 of [STATEC Report on work and social cohesion - the changing world of employment](#) (*Rapport travail et cohésion sociale - le monde de l'emploi en mutation*), October 2020

<sup>40</sup> Luxembourg, website of the parliament, [Urgent question n°2863 on quarantine of teaching staff](#) (Question urgente n°2863 sur mise en quarantaine du personnel enseignant), 22.09.2020.

<sup>41</sup> Luxembourg, website of the National Teachers Union, [Press conference - 2020-2021 SNE / CGFP union start](#) (*Pressekonferenz - Rentrée syndicale SNE/CGFP 2020-2021*), 25.09.2020.

understanding of the part-quarantine procedure, considering that the quarantined teacher by coming to school would inevitably have contact with others. The quarantine does not apply to work but to leisure and private life, which is unacceptable according to the SNE. The Consultative Commission on Human Rights has expressed its serious concerns in respect of the partial quarantine as well and urged the government to ensure that economic considerations do not take precedence over the protection of the health of those concerned.<sup>42</sup>

## 2.2 Housing

The problem of housing is not new in Luxembourg. Rental prices have exploded in recent years, thereby causing enormous difficulties to a certain part of the population. Housing is considered one of the most pressing issues currently in the country.<sup>43</sup> The problem affects several groups, among others, young people, single-parent families, large families, workers with modest incomes, citizens of foreign origin, people in a professional transition, newcomers, students or applicants/beneficiaries of international protection.<sup>44</sup> Consequently a part of the population is being pushed beyond the borders while holding full citizenship of the country.<sup>45</sup> Recent data published by the Habitat Observatory had shown that despite the COVID-19 crisis and the consequent economic slowdown, the increase of housing costs had not stopped, but quite the opposite.<sup>46 47</sup> Players of the real estate market have confirmed as well that the health crisis has significantly affected the market and caused a rapid price increase.<sup>48</sup>

The COVID-19 crisis has revealed that having decent housing conditions is of the utmost importance when putting in place health measures to stop the spread of the virus.<sup>49</sup> The containment measures ultimately weighed much more heavily on people living in precarious conditions. Based on the calls received by CARITAS on their corona helpline, one of the most important issues in crisis management would be to find quick solutions to affordable rental housing.<sup>50 51</sup> The trade union OGBL has also emphasised the importance of finding a solution to the housing problem as one of the five priorities to exit the crisis in Luxembourg.<sup>52</sup> On 10 October 2020, organised by 18 civil organisation, a national demonstration took place in Luxembourg city for the right to decent and affordable housing.<sup>53</sup>

There have been extraordinary measures put in place by the government to provide certain protections to tenants facing difficulties because of COVID-19. Among others, the Ministry of Housing supports low-income households who rent in the private market through a rent subsidy.<sup>54</sup> Also, as of

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<sup>42</sup> Luxembourg, website of CCDH, [Opinion 11/2020 on Bill n° 7683](#) (*Avis 11/2020 sur le projet de loi n°7683*), 27.10.2020.

<sup>43</sup> Luxembourg, Delano.lu, [Housing, health, climate: top concerns for Lux](#), news press release on 26.10.2020.

<sup>44</sup> Luxembourg, radio 100.7, [Do we want affordable rental housing in Luxembourg?](#) (*Wëlle mer abordabel Mietwunnengen zu Lëtzebuerg?*), 09.10.2020.

<sup>45</sup> Luxembourg, website of OGBL, [National demonstration for the right to decent and affordable housing on 10 October 2020](#) (*Manifestation nationale pour le droit à un logement digne et abordable le 10 octobre 2020*), 08.10.2020.

<sup>46</sup> Luxembourg, website of LISER Habitat Observatory, [Price indicators offered for rental from real estate advertisements in the 2nd quarter of 2020 in current euros](#) (*Indicateurs des prix proposés à la location issus des annonces immobilières au 2ème trimestre 2020 en euros courants*), accessed on 22.10.2020.

<sup>47</sup> Luxembourg, RTL today, [The impact of coronavirus on the housing market](#), news press release on 22.10.2020.

<sup>48</sup> Luxembourg, RTL today, [Pandemic causes drastic increase in average house and apartment prices](#), news press release on 27.10.2020.

<sup>49</sup> Luxembourg, woxx.lu, [Housing crisis: Still no “matter for the boss”](#) (*Crise du logement : Toujours pas de « Chefsache »*), press news release on 15.10.2020.

<sup>50</sup> Luxembourg, website of CARITAS, [An assessment that pushes for action!](#) (*Un bilan qui pousse à l'action !*), 08.10.2020.

<sup>51</sup> Luxembourg, website of CARITAS, [On the street from day to another](#) (*A la rue du jour au lendemain*), 06.10.2020.

<sup>52</sup> Luxembourg, website of OGBL, [Five priorities to exit the crisis](#) (*Cinq priorités pour sortir de la crise*), 29.09.2020.

<sup>53</sup> Luxembourg, website of OGBL, [National demonstration for the right to decent and affordable housing on 10 October 2020](#) (*Manifestation nationale pour le droit à un logement digne et abordable le 10 octobre 2020*), 08.10.2020.

<sup>54</sup> Luxembourg, website of the government, FAQ COVID-19, [Measures taken in the context of the health crisis](#) (*Mesures prises dans le cadre de la crise sanitaire*), last accessed on 28.10.2020.



20 May 2020, any increase in the rent of residential accommodation has been declared prohibited.<sup>55</sup> In responding to the housing problem generally, there are currently two bills on their ways. The first one is aiming to reform the housing pact<sup>56</sup> and the second one intends to deal with the rental prices<sup>57</sup>. However, none of them was well-received at this stage by the relevant stakeholders, as they do not seem to go far enough in guaranteeing the rights of tenants.<sup>58 59</sup>

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

#### 3.1 Young people

##### Right to work:

Statistical data published by ADEM (Employment Development Agency)<sup>60</sup> on 21 September 2020, as well as by STATEC<sup>61</sup> on 15 October 2020 indicate that young people are particularly affected by the crisis in the context of the labour market. Youth unemployment rose from 18% to 26% between February and June 2020.<sup>62</sup> The number of registrations as unemployed by people under 30 has increased by a third compared to the year before.<sup>63</sup> The study of STATEC explains that hiring in the first half of 2020 was almost at a standstill. As a consequence, although a large part of the young people entering the market is not yet unemployed, they have difficulties finding their first job. Also, new graduates are entering the job market from September, which will even aggravate these numbers. Young people, therefore, represent the part of the population that will be most severely affected by the recession,<sup>64</sup> regardless of their education, including university graduates.<sup>65 66</sup> In the course of a meeting of the competent parliamentary committees (i.e. employment and economy) on 24 September 2020, it was emphasised that the government intends to put in place targeted measures, such as additional training for graduates (i.e. the “Diplom+” program)<sup>67</sup> or access to professional training courses.<sup>68</sup>

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<sup>55</sup> Luxembourg, [act of 20 June 2020 derogating from article 3, paragraph 5, of the amended act of 21 September 2006 on the lease for residential use and amending certain provisions of the Civil Code \(loi du 20 juin 2020 portant dérogation à l'article 3, paragraphe 5, de la loi modifiée du 21 septembre 2006 sur le bail à usage d'habitation et modifiant certaines dispositions du Code civil\)](#).

<sup>56</sup> Luxembourg, website of the parliament, [Presentation of the “Housing Pact 2.0” \(Présentation du “pacte logement 2.0”\)](#), 30.07.2020.

<sup>57</sup> Luxembourg, website of the government, [Henri Kox presents the overhaul of the rental agreement - More protection and transparency for the tenant \(Henri Kox présente la refonte du bail à loyer - Plus de protection et de transparence pour le locataire\)](#), 30.07.2020.

<sup>58</sup> Luxembourg, woxx.lu, [The right to your own four walls \(Das Recht auf die eigenen vier Wände\)](#), 08.10.2020.

<sup>59</sup> Luxembourg, website of OGBL, [Five priorities to exit the crisis \(Cinq priorités pour sortir de la crise\)](#), 29.09.2020.

<sup>60</sup> Luxembourg, website of ADEM, [The number of job seekers continues to decline \(Le nombre de demandeurs d'emploi continue à reculer\)](#), 21.09.2020.

<sup>61</sup> Luxembourg, Chapter 2.3 of [STATEC Report on work and social cohesion - the changing world of employment \(Rapport travail et cohésion sociale - le monde de l'emploi en mutation\)](#), October 2020

<sup>62</sup> Luxembourg, RTL today, [Senior citizens facing terrible wave of unemployment](#), press news release on 17.09.2020.

<sup>63</sup> Luxembourg, website of the parliament, [“The crisis affects all young people” \(“La crise touche l'ensemble des jeunes”\)](#), 24.09.2020.

<sup>64</sup> Luxembourg, RTL today, [Youth unemployment on the rise in Luxembourg](#), news press release on 24.09.2020.

<sup>65</sup> Luxembourg, website of the parliament, [“The crisis affects all young people” \(“La crise touche l'ensemble des jeunes”\)](#), 24.09.2020.

<sup>66</sup> Luxembourg, RTL today, [Under-30s struggling to find work in spite of qualifications](#), news press release on 23.09.2020.

<sup>67</sup> Luxembourg, website of the government, [Diplom +: more skills for young people in transition \(Diplom + : plus de compétences pour les jeunes en transition\)](#), 23.09.2020.

<sup>68</sup> Luxembourg, website of the parliament, [“The crisis affects all young people” \(“La crise touche l'ensemble des jeunes”\)](#), 24.09.2020.

### Right to education:

Primary and high schools have started in September with relative normality.<sup>69</sup> <sup>70</sup> Although statistics showed that in mid-October the number of proven contaminations in schools had increased from 7% to 12% (representing the second highest cause of contamination after the family environment<sup>71</sup>) the re-introduction of homeschooling has yet not been considered. By the end of October, more and more teachers were reported absent due to COVID-19 as they got infected or placed in quarantine. Moreover, pregnant women had been declared vulnerable and prohibited to work, thereby aggravating the staff shortage in the education sector. According to official figures from the Ministry of Education, 171 teachers were tested positive since 15 September 2020, out of which 99 cases between 17 and 23 October.<sup>72</sup> A new piece of legislation has been put on the table to prevent any negative impact on school effectiveness due to COVID-19.<sup>73</sup> The new law provides for several exemptions concerning school staff recruitment. The authorities plan to recruit holders of a professional bachelor's degree in education. However, the recruitment will be open to people holding a high school diploma as well. Practical training is not required to become a substitute teacher for a limited time. In its press release, the National Teachers Union (SNE) has heavily criticised the recruitment rules.<sup>74</sup>

The University of Luxembourg has set up its hotline and email address where people who have tested positive can get in touch to enable tracing within the university. An update on the current situation, which is closely monitored, is given every week by the Rector. During the recent peak, between 23-26 October, the number of infections doubled over the weekend. Before that, the number of positive cases within the university had remained stable since September. The university was able to react rapidly on the 26<sup>th</sup> of October and reintroduced remote teaching for one month.<sup>75</sup> Midterms can be held in person or online as a secure system was introduced last semester. Previously, a combination of remote teaching and in-person lectures on campus were the rules of conduct.<sup>76</sup> The lecture halls are equipped with modern technology, which enables students to attend classes from home in good quality. Since the beginning of the pandemic, the university has been working on guidelines that are regularly being updated.<sup>77</sup> Already at the beginning of the pandemic, exceptional housing rules were introduced for students living in one of the 35 housing facilities of the University

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<sup>69</sup> Luxembourg, website of the Ministry of Education, [A return to school in the greatest possible normality and safety](#) (*Une rentrée scolaire dans les plus grandes normalité et sécurité possibles*), 04.09.2020.

<sup>70</sup> Luxembourg, paperjam.lu, [Back to school under the sign of Covid](#) (*Une rentrée scolaire sous le signe du Covid*), news press release on 15.09.2020.

<sup>71</sup> Luxembourg, website of the National Teachers Union, [COVID-19: Situation one month after return](#) (*COVID-19: Situation one month after return*), 16.10.2020.

<sup>72</sup> Luxembourg, wort.lu, [School staff wanted desperately](#) (*Schulpersonal händeringend gesucht*), news press release on 27.10.2020.

<sup>73</sup> Luxembourg, website of the parliament, [Schools facing an organizational challenge](#) (*Les écoles devant un défi organisationnel*), 28.10.2020.

<sup>74</sup> Luxembourg, website of the SNE, [Recruitment of new staff in education ... over the heads of the actors concerned - an absolute NO-GO!](#) (*Recrutement vun neiem Personal an der Educatioun... iwwert de Kapp vun de concernéierten Acteuren ewech - en absoluten NO-GO!*), 29.10.2020.

<sup>75</sup> Luxembourg, RTL today, [University of Luxembourg switches to remote teaching for one month](#), news press release on 26.10.2020.

<sup>76</sup> Luxembourg, radio 100.7, [University entrance with mixed teaching methods](#) (*Uni-Rentrée mat gemëschte Léiermethoden*), news press release on 14.09.2020.

<sup>77</sup> Luxembourg, website of the University of Luxembourg, [General Guidelines, Health and Safety Rules](#), last accessed on 28.10.2020.

of Luxembourg. Students now can end their lease contract without one month's notice and to defer the payment of the rent under certain conditions.<sup>78</sup>

### 3.2 Older people:

#### Right to work:

According to a study published by Idea Foundation, the unemployment crisis is anticipated among the senior citizens of Luxembourg.<sup>79</sup> This crisis is a direct consequence of the COVID-19 situation, however, provoked by some alarming trends already present in the country.<sup>80</sup> Luxembourg had been facing the problem of long-term unemployment among seniors even before the pandemic. Almost 70% of the unemployed over 55 had been in that situation for at least a year, compared to only 40% of those under 55. These challenges in the context of digital transition - rather unfavourable to seniors and jobs traditionally occupied by them - find themselves aggravated by the COVID-19 pandemic and its economic consequences. While youth unemployment is considered a priority issue in Europe,<sup>81</sup> no particular attention, according to IDEA Foundation, is being paid to older workers (55+) when the current crisis could have lasting and severe effects on their employment prospects.<sup>82</sup>

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<sup>78</sup> Luxembourg, website of the University of Luxembourg, [Latest News - Housing request 2020/2021](#), last accessed on 28.10.2020.

<sup>79</sup> Luxembourg, website of Idea Foundation, [Under-activity of seniors, this dominant evil!](#) (*Sous-activité des seniors, ce mal dominant !*), 09.09.2020.

<sup>80</sup> Luxembourg, RTL today, [Senior citizens facing terrible wave of unemployment](#), news press release on 17.09.2020.

<sup>81</sup> Luxembourg, RTL today, [Senior citizens facing terrible wave of unemployment](#), news press release on 17.09.2020.

<sup>82</sup> Luxembourg, website of Idea Foundation, [Under-activity of seniors, this dominant evil!](#) (*Sous-activité des seniors, ce mal dominant !*), 09.09.2020.