

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: The Netherlands

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency, including enforcement actions

In the Netherlands, regional emergency ordinances (*noodverordeningen*) have been implemented in the 25 Safety Regions (*veiligheidsregio's*) on basis of article 39 of the Safety Regions Act (*Wet veiligheidregio's*)¹ and article 176 of the Municipality Act (*Gemeentewet*)². These emergency ordinances are adopted by the mayor of the central municipality in his or her capacity as chair of the Safety Region without any review by the Municipal Councils (*Gemeenteraden*). These regional emergency ordinances are separate (each safety region has its own ordinance) but almost identical. The model of these emergency ordinances is drafted by the Ministry of Justice and Security and published by the Safety Council (*Veiligheidsberaad*) which represents all the Safety Regions. The first model was published on 16 March 2020.³ Subsequently regional emergency ordinances were implemented in all Safety Regions based on this first model. The latest model was published on 27 March 2020.⁴ Subsequently, in the period 30 March-3 April 2020, in all safety regions emergency ordinances based on this latest model took force and were still in force on 1 May 2020. These new emergency ordinances replaced the previous ordinances. For example, on 30 March 2020, the mayor of the municipality of Rotterdam adopted a new emergency ordinance for the whole safety region Rotterdam-Rijnmond (consisting of 15 municipalities).⁵ The emergency ordinances based on the model published on impose wide reaching restriction on public life and private life. For example: authorities will take action against groups of 3 or more people, who do not keep the required 1.5 metres distance from each other (with the exception of children under the age of 12 of people who share a household, such as families); events and meetings are prohibited (with a number of exceptions like religious gatherings not exceeding 30 persons and under the rule to keep 1.5 metres distance); care homes and nursing homes must be closed for visitors; schools and childcare facilities must be closed (with the exception of child care facilities for children with parent perform essential professions; restaurants, cafés, bars, casinos, coffeeshops and play halls must be closed; it is prohibited to work in any profession with physical contact such as at home hair dresser, driving instructor or masseur.

¹ The Netherlands, Safety Regions Act (*Wet Veiligheidsregio's*), Article 39, available at: https://wetten.overheid.nl/BWBR0027466/2020-01-01/#Paragraaf9_Artikel39

² The Netherlands, Municipality Act (*Gemeentewet*), Article 176, available at: https://wetten.overheid.nl/BWBR0005416/2020-01-01/#TiteldeelIII_HoofdstukXI_Artikel176

³ The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), 'Landelijke model-noodverordening voor de veiligheidsregio's', News release, 17 March 20, available at: <https://www.veiligheidsberaad.nl/2020/03/17/landelijke-model-noodverordening-voor-de-veiligheidsregios/>

⁴ The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), *Noodverordening van de voorzitter van de veiligheidsregio [aanduiding veiligheidsregio] houdende voorschriften ter voorkoming van verdere verspreiding van het coronavirus/COVID19 (Noodverordening COVID-19 veiligheidsregio [aanduiding veiligheidsregio] [dag] maart 2020)*, available at: https://www.veiligheidsberaad.nl/?jet_download=3932

⁵ The Netherlands, Municipality of Rotterdam (*Gemeente Rotterdam*), 'Noodverordening van de voorzitter van de Veiligheidsregio Rotterdam-Rijnmond houdende voorschriften ter voorkoming van verdere verspreiding van het coronavirus/COVID-19 (Noodverordening COVID-19 Veiligheidsregio Rotterdam-Rijnmond 30 maart 2020)', *Gemeentebled* 2020, No. 87329, 31 March 2020, available at: <https://zoek.officielebekendmakingen.nl/gmb-2020-87329.html>

On 23 April 2020, in daily newspaper 'Trouw', professors of Administrative Law Jan Brouwer (University of Groningen) en Jon Schilder (Vrije Universiteit Amsterdam) state in an interview that these emergency ordinances are illegal because they restrict several fundamental rights (e.g. right of association; right of assembly; right to privacy; right to religion; right to respect of the home) enshrined in the Dutch constitution.⁶ They state that such restrictions can only be made by an Act by Parliament and not by regional legislation. On 27 April 2020, the daily newspaper 'NRC' reported about plans of the government to replace the regional emergency ordinances by an Emergency Act in order to give emergency legislation a better legal basis.⁷

1.2 Measures affecting the general population

1.2.1 Social distancing

In **the Netherlands**, on a press conference held on 12 March 2020, the Dutch government recommended people to stay at home as much as possible and to practice social distancing.⁸

In **the Netherlands**, on a press conference held on 23 March 2020, the Dutch government announced that it will impose and enforce physical distancing in public place.⁹ A general stay at home order has not been imposed in the Netherlands.

In **the Netherlands**, physical distancing in public places is imposed by article 2.2 of the latest regional emergency ordinances.¹⁰ These regional ordinances are based on a model¹¹ provided by the national government and took effect in the period 30 March-3 April 2020 and are still in force on 1 May 2020.. Article 2.2 of the latest regional emergency ordinances prohibits any gathering of 3 or more people, who do not keep the required 1.5 metres distance from each other (with the exception of children under the age of 12 or people who share a household, such as families). Enforcement is maintained by police officers and special enforcement officers (*buitengewone opsporingsambtenaren*) by imposing fines of up to €399. The news programme 'RTL Nieuws' reported that in the long Easter weekend (10-13 April) police officers issued more than 1800 fines for violation of the physical

⁶ Marijnissen, H. (2020), 'Noodverordening blijkt illegaal en moet worden aangepast', *Trouw*, 23 April 2020, available at: <https://www.trouw.nl/binnenland/noodverordening-blijkt-illegaal-en-moet-worden-aangepast-be66a1da/>

⁷ Kuiper, M. and Lievisse Adriaanse, M. (2020), 'Spoedwet voor noodmaatregelen', *NRC*, 27 April 2020, available at: <https://www.nrc.nl/nieuws/2020/04/27/spoedwet-voor-noodmaatregelen-a3997955>

⁸ The Netherlands, National Government (Rijksoverheid) (2020), Letterlijke tekst persconferentie minister-president Rutte en minister Bruins naar aanleiding van de maatregelen tegen verspreiding coronavirus in Nederland, 12 March 2020, available at: <https://www.rijksoverheid.nl/documenten/mediateksten/2020/03/12/persconferentie-minister-president-rutte-en-minister-bruins-naar-aanleiding-van-de-maatregelen-tegen-verspreiding-coronavirus-in-nederland>

⁹ The Netherlands, National Government (2020), Letterlijke tekst persconferentie minister-president Rutte, ministers Grapperhaus, De Jonge en Van Rijn over aangescherpte maatregelen coronavirus, available at: <https://www.rijksoverheid.nl/documenten/mediateksten/2020/03/23/persconferentie-minister-president-rutte-ministers-grapperhaus-de-jonge-en-van-rijn-over-aangescherpte-maatregelen-coronavirus>

¹⁰ The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), *Noodverordening van de voorzitter van de veiligheidsregio [aanduiding veiligheidsregio] houdende voorschriften ter voorkoming van verdere verspreiding van het coronavirus/COVID19 (Noodverordening COVID-19 veiligheidsregio [aanduiding veiligheidsregio] [dag] maart 2020)*, available at: https://www.veiligheidsberaad.nl/?jet_download=3932

¹¹ The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), *Noodverordening van de voorzitter van de veiligheidsregio [aanduiding veiligheidsregio] houdende voorschriften ter voorkoming van verdere verspreiding van het coronavirus/COVID19 (Noodverordening COVID-19 veiligheidsregio [aanduiding veiligheidsregio] [dag] maart 2020)*, available at: https://www.veiligheidsberaad.nl/?jet_download=3932

distancing rules.¹² For example: on Sunday 12 April 2020 17 people who attended a barbecue on the roof of a building in Rotterdam were each fined for €399 for violating the physical distancing rules.¹³ Fines have also been imposed on persons who gathered in private houses and did not keep 1.5-meter distance. In the city of The Hague, for example, the local broadcaster 'Omroep West' reported that 7 persons were fined because they were partying in a private house in The Hague on Monday evening 27 April.¹⁴ In a news release the Public Prosecution Service (*Openbaar Ministerie*) reported about a homeless woman who was sentenced to three weeks in prison by the Rotterdam District Court because she refused to keep a 1.5m distance.¹⁵ The woman had been warned multiple times, but didn't stop. She was then arrested and put on trial through 'quick-justice' on 23 April 2020.

1.2.2 Education

In **the Netherlands**, the minister of Education, Culture and Science announced, in a letter to parliament, that all types of education – primary, secondary and tertiary schools – and nurseries are closed since 16 March.¹⁶ For children with both of their parents working in essential jobs, child care was organised in either schools or nurseries. Since these measures were taken, there have been concerns about children in vulnerable situations at home. For instance, children that risk domestic violence in their homes, children with social psychological or behavioural problems that put a lot of pressure on their families, children that have a Dutch language deficiency or children that not have access to internet and/or a computer.¹⁷

In **the Netherlands**, the Minister of Education, Culture and Science announced, in a letter to parliament, three support measures for children in vulnerable situations on 20 March 2020.¹⁸ First, €2.5 million has been made available for laptops for children who do not own a computer at home. Also telecom providers have been asked to offer internet to these children for instance via hotspots in neighbourhoods with many children who do not have access to internet.¹⁹ Second, the Minister requested municipalities to take initiative for additional measures for children that need support in doing their schools tasks, for instance because they have parents who have a Dutch language deficiency. Third, for children with psychological or behavioural problems and children who are not safe at home and where there is the risk on domestic violence, municipalities are asked to identify

¹² RTL Nieuws (2020), 'Dit paasweekend 1800 boetes uitgedeeld om overtreden coronamaatregelen', News item, 15 April 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5089386/politie-1800-boetes-paasweekend-overtreden-coronamaatregelen>

¹³ RTV Rijnmond (2020), 'Prijzige barbecue van bijna 7000 euro voor groep Rotterdammers', News item, 13 April 2020, available at: <https://www.rijnmond.nl/nieuws/194369/Prijzige-barbecue-van-bijna-7000-euro-voor-groep-Rotterdammers>

¹⁴ Omroep West (2020), 'Coronamaatregelen genegeerd: veertien bekeuringen om huisfeest en samenscholing', News item, 28 April 2020, available at: <https://www.omroepwest.nl/nieuws/4034036/Coronamaatregelen-genegeerd-veertien-bekeuringen-om-huisfeest-en-samenscholing>

¹⁵ The Netherlands, Public Prosecution Service (*Openbaar Ministerie*) (2020), 'Celstraf voor niet naleven 1,5 meter-regel', News release, 24 April 2020, available at: <https://www.om.nl/actueel/nieuws/2020/04/24/celstraf-voor-niet-naleven-15-meter-regel>

¹⁶ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Continuïteit van het funderend onderwijs bij maatregelen tegen het Coronavirus', Letter to House of Representatives, , 20 March 2020, available at <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/20/kamerbrief-inzake-continuïteit-van-het-funderend-onderwijs-bij-maatregelen-tegen-het-coronavirus>

¹⁷ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Continuïteit van het funderend onderwijs bij maatregelen tegen het Coronavirus', Letter to House of Representatives, , 20 March 2020, available at <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/20/kamerbrief-inzake-continuïteit-van-het-funderend-onderwijs-bij-maatregelen-tegen-het-coronavirus>

¹⁸ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Continuïteit van het funderend onderwijs bij maatregelen tegen het Coronavirus', Letter to House of Representatives, , 20 March 2020, available at <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/20/kamerbrief-inzake-continuïteit-van-het-funderend-onderwijs-bij-maatregelen-tegen-het-coronavirus>

¹⁹ VO-raad (2020), 'Internet voor elke leerling en leraar: aanmelden nu mogelijk.', News Release, 2 April 2020, available at <https://www.vo-raad.nl/nieuws/internet-voor-elke-leerling-en-leraar-aanmelden-nu-mogelijk>

these children and organise day care for them, for instance in their schools. Municipalities in the Netherlands are responsible for the whole continuum of care for children, young people and families in need of help.²⁰

In **the Netherlands**, broadcaster 'RTL' reported about a poll conducted by the Association of School Leaders (*Algemene Vereniging Schoolleiders*) which shows that 5,640 pupils who have been labelled as 'lost' by their schools. Schools have not been able to establish contact with these children or their parents.²¹ The Minister of Education, Culture and Science requests schools to keep trying to establish contact with these children.²² School attendance officers and special enforcement officers are deployed to trace these children.²³

In **the Netherlands**, Dutch daily newspaper 'AD' reported that Due to the Corona crisis, the final test that pupils take in their last year of primary school will not be taken this year.²⁴ The school advice that pupils have received from their teachers earlier this year, now determines which secondary school recommendation they receive. However, research shows that there are often differences between the teacher's advice and the test advice, which may be caused by implicit prejudices of teachers. Teachers may systematically have lower expectations of children from a lower socioeconomic background, or of boys towards girls.²⁵ To counter this risk, the Minister of Education, Culture and Science wants to ensure schools to closely evaluate the pupils and provide them with the recommendation that suits their abilities best. The Minister is working out a plan for evaluating pupils in their first year of secondary school, to see whether students are in the right place.²⁶

In **the Netherlands**, the national government announced in a news release that primary schools, schools for pupils with special needs and childcare will reopen in an adapted manner from 11 May.²⁷ There is a protocol for education for pupils with special needs²⁸ and a protocol for regular primary education.²⁹ The protocols indicate a number of practical aspects concerning safety and hygiene that have to be taken into account when the schools reopen. From 11 May 2020 the same test protocol

²⁰ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Continuïteit van het funderend onderwijs bij maatregelen tegen het Coronavirus', Letter to House of Representatives, 20 March 2020, available at <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/20/kamerbrief-inzake-continuïteit-van-het-funderend-onderwijs-bij-maatregelen-tegen-het-coronavirus>

²¹ RTL (2020), 'Ruim 5000 leerlingen onvindbaar', *RTLNieuws*, 9 April 2020, <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5085586/basisscholen-middelbare-scholen-leerlingen-onvindbaar-coronacrisis>

²² RTL (2020), 'Ruim 5000 leerlingen 'kwijt'. Minister Slob roept op om te blijven zoeken', 9 April 2020, available at: <https://www.rtlnieuws.nl/nieuws/politiek/artikel/5085826/minister-slob-corona-scholen-rivm-over-onvindbare-kinderen-blijf>

²³ VO-raad (2020), 'Deurgesprek' leerplichtambtenaren bij kwetsbare leerlingen', News Release, 9 April 2020, available at: <https://www.vo-raad.nl/nieuws/deurgesprek-leerplichtambtenaren-bij-kwetsbare-leerlingen>

²⁴ Keultjes, H. (2020), 'Geen eindtoets voor groep 8 vanwege corona', *Algemeen Dagblad*, 18 March 2020, available at: <https://www.ad.nl/politiek/geen-eindtoets-voor-groep-8-vanwege-corona~a3352b87/>

²⁵ Hoogenbosch, A. (2020), 'Corona in Nederland: hoe staat het met Mensenrechten?', *RADAR/Art.1/IDEM*, 3 April 2020, available at: <https://radar.nl/corona-in-nederland-hoe-staat-het-met-mensenrechten/>

²⁶ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Continuïteit van het funderend onderwijs bij maatregelen tegen het Coronavirus', Letter to House of Representatives, 20 March 2020, available at <https://www.rijksoverheid.nl/documenten/kamerstukken/2020/03/20/kamerbrief-inzake-continuïteit-van-het-funderend-onderwijs-bij-maatregelen-tegen-het-coronavirus>

²⁷ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Uitgangspunten voor opening scholen primair onderwijs en kinderopvang', News release, 4 April 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/04/24/uitgangspunten-voor-opening-scholen-primair-onderwijs-en-kinderopvang>

²⁸ PO-raad (2020), 'Protocol opstart speciaal basisonderwijs (SBAO)/ Speciaal Onderwijs (SO)', Protocol, 22 April 2020, available at https://po.lesopafstand.nl/app/uploads/Protocol_speciaal.pdf

²⁹ PO-raad (2020), 'Protocol opstart regulier basisonderwijs', Protocol, 22 April 2020, available at https://po.lesopafstand.nl/app/uploads/Protocol_regulier.pdf

will apply to education staff as to healthcare staff. This means that when employees have health complaints, testing can be done easily.³⁰

In the **Netherlands**, the national government announced in a news release that schools in secondary and tertiary education will remain closed at least until the 1st of June. During the month May the Outbreak Management Team will assess whether these schools can reopen in June.³¹ Students of secondary education therefore risk a significant learning delay. To prevent this, the VO-raad (representing schools in secondary education) developed a home school buddy project to link students to volunteers, who stimulate and guide them as a buddy.³²

1.2.3 Work

In the **Netherlands**, the government requests from employers in non-crucial or non-essential sectors to have their employees to work from home as much as possible, since the outbreak of COVID-19.³³ However if they are not able to work from home, it is up to the employer to facilitate the spread of working hours and to take care of physical distance between workplaces. Employers have a duty of care for their employees. If the employee has a cold and he or she cannot work from home and does not work in an essential profession, the employer cannot oblige the employee to come to work. This is at the expense and risk of the employer. This means that the employer is then obliged to continue to pay the wages (unless otherwise agreed in the employment contract or collective labour agreement).³⁴

In the **Netherlands**, the Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud* or NOW), took effect on 4 April 2020.³⁵ Under the NOW employers facing turnover losses of more than 20% during three consecutive months in the period 1 March 2020 to 31 July can apply for compensation towards wages. The NOW allows employers to pay their employees in a permanent and in a flexible contract. If the employer applies for the NOW, he is obliged to pay the full wage and not allowed to apply for dismissals from the UWV (Employee Insurance Agency) during the period in which the compensation is granted. In a letter to House of Representatives the Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) states that between 6 April and 30 April, approximately 114,000 applications were submitted under the NOW. 104,000 applications have been approved.³⁶ Advances have now

³⁰ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over het coronavirus en basisonderwijs en speciaal onderwijs', Web page, available at <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ouders-scholieren-en-studenten-kinderopvang-en-onderwijs/basisonderwijs-en-speciaal-onderwijs>

³¹ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Uitgangspunten voor opening scholen primair onderwijs en kinderopvang', News release, 24 April 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/04/24/uitgangspunten-voor-opening-scholen-primair-onderwijs-en-kinderopvang>

³² VO-Raad (2020), 'VO-raad start campagne voor ondersteuning van kwetsbare leerlingen', News release, 4 April 2020, available at <https://www.vo-raad.nl/nieuws/vo-raad-start-campagne-voor-ondersteuning-van-kwetsbare-leerlingen>

³³ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over coronavirus voor werkgevers algemeen', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ondernemers-en-bedrijven/werkgevers-en-ondernemers>

³⁴ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over coronavirus voor werkgevers algemeen', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ondernemers-en-bedrijven/werkgevers-en-ondernemers>

³⁵ The Netherlands, Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud*), 31 March 2020, available at: <https://wetten.overheid.nl/BWBR0043340/2020-04-04>

³⁶ The Netherlands, Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) (2020), 'Monitoring arbeidsmarkt en beroep noodpakket', Letter to House of Representatives, 1 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/01/kamerbrief-monitoring-arbeidsmarkt-en-beroep-noodpakket/TK+ASEA+61835+Monitoring+arbeidsmarkt+en+beroep+noodpakket.pdf>

been paid to these employers reaching approximately 1.7 million people. About 6,700 applications were rejected. Most applicants (68%) are employers with 1 to 10 employees.

In **the Netherlands**, the Temporary bridging measure for self-employed professionals (*Tijdelijke overbruggingsregeling zelfstandig ondernemers* or Tozo) took effect on 22 April 2020.³⁷ Under this measure self-employed persons can apply for income support for a period of three months or apply for working capital, through an accelerated procedure. The income support is a supplement to the social minimum and is non-refundable (maximum is €1,503 per month), and the working capital amounts to a maximum (€1,0157) and must be paid back. In a letter to House of Representatives the Minister of Social Affairs and Employment (*Minister van Sociale Zaken en Werkgelegenheid*) states that the number of applications under Tozo is estimated at approximately 343,000. These are applications for income support or for a working capital loan. Most applications concerned requests for income support.

In **the Netherlands**, at the beginning of the COVID-19 outbreak, the government identified a number of sectors and processes that are crucial or essential in keeping society running:³⁸ healthcare and care, including the production and transportation of medicines and medical devices; in education teachers and support staff who are needed to provide distance learning, childcare at schools and exam supervision; public transport; food supply; transportation of fuel, including coal, oil, petrol and diesel; refuse and waste collection; childcare; media and communication, in so far as this work relates to providing society with necessary information about the current situation; the police service and defence organisation; emergency services (control room processes, fire services, ambulance services); safety regions' crisis management; essential government processes (central, provincial and municipal government), such as payment of benefits and allowances, population affairs, consulates and embassies, custodial institutions and forensic clinics.

Parents and guardians who work in the aforementioned crucial or essential sectors have the following exceptions:

- They can make use of 'emergency care' for children at school or childcare.
- They are allowed to work if they have mild symptoms COVID-19(coughing and / or colds and / or fever) . They should discuss this with their employer.³⁹
- Healthcare professionals (and from 11 May also professionals working in primary education)⁴⁰ with at least 24 hours of symptoms of COVID-19 (coughing and / or colds and / or fever) and who provides immediate care to a patient may be tested.⁴¹

³⁷ The Netherlands, the Temporary bridging measure for self-employed professionals (*Tijdelijke overbruggingsregeling zelfstandig ondernemers*), 17 April 2020, available at: <https://wetten.overheid.nl/BWBR0043402/2020-04-22>

³⁸ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Vragen over noodopvang voor kinderen van ouders in cruciale beroepen of vitale processen', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ouders-scholieren-en-studenten-kinderopvang-en-onderwijs/noodopvang-cruciale-beroepen-en-vitale-processen>

³⁹ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Nederlandse maatregelen tegen het coronavirus', Web page, available at <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/nederlandse-maatregelen-tegen-het-coronavirus>

⁴⁰ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over het coronavirus en basisonderwijs en speciaal onderwijs', Web page, available at <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/ouders-scholieren-en-studenten-kinderopvang-en-onderwijs/basisonderwijs-en-speciaal-onderwijs>

⁴¹ RIVM (2020), 'Testbeleid zorgmedewerkers buiten ziekenhuis', Web page, available at: <https://lci.rivm.nl/lci.rivm.nl/covid-19/bijlage/zorgmedewerkersinzetentestbeleid>

1.2.4 Access to justice

In **the Netherlands**, the Council for the Judiciary (*Raad voor de Rechtspraak*) closed all court buildings on 17 March 2020.⁴² The courts and special tribunals continued to handle urgent cases. Whenever possible, these hearings are conducted via video or teleconference. If a physical hearing is needed, the court takes necessary additional measures to prevent the COVID-19 from spreading. The rules concerning the handling of urgent cases during the Corona crisis are laid down by the Council for the Judiciary (*Raad voor de Rechtspraak*) in the General Regulation Court Cases (*Algemene regeling zaaksbehandeling Rechtspraak*) which is updated regularly (latest update was 30 April 2020).⁴³ The General Regulation specifies the following cases as being very urgent: the detention of suspects, the detention of aliens, some commercial cases including bankruptcy filings, some family law cases. From 9 April 2020, the General Regulation rules that trial documents can be sent by a special email facility instead of post or fax as demanded by law.⁴⁴

In **the Netherlands**, the Temporary COVID-19 Justice and Security Act (*Tijdelijke wet COVID-19 Justitie en Veiligheid*) took effect on 24 April 2020.⁴⁵ This Act modifies several laws temporarily, amending civil, administrative, and criminal procedures. Some modifications have a retroactive effect as from 16 March 2020. The act will expire on 1 September 2020 but may continuously be extended with two months if circumstances surrounding COVID-19 give rise thereto. Important modifications are the introduction of a temporary legal basis for digital court hearings (through a two-sided electronic means of communication) in civil and administrative legal proceedings; oral proceedings in first instance and in appeal may take place by using telephones, video connections or other audio-visual transmissions, even without the consent of all the parties involved; in cases handled by the subdistrict court (*kantonrechter*) defendants may conduct their defence in writing, by telephone, or by email (instead of conducting their defence orally).

In **the Netherlands**, the Council for the Judiciary (*Raad voor de Rechtspraak*) decided that from 11 May 2020, the court buildings will be open for a limited number of cases, and only for the parties involved.⁴⁶ Criminal cases, juvenile criminal cases and family law cases will be prioritised.

In **the Netherlands**, daily newspaper 'NRC', reported about a backlog of 40,000 criminal cases which is caused by the corona crisis.⁴⁷ Public broadcaster 'NOS' reported about that the Public Prosecution

⁴² The Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2020), 'Vanaf dinsdag sluiten de gerechten, urgente zaken gaan wel door', News release, 15 March 2020, available at: <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Rechtbanken/Rechtbank-Noord-Nederland/Nieuws/Paginas/Vanaf-dinsdag-sluiten-de-gerechten-urgente-zaken-gaan-wel-door.aspx>

⁴³ The Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2020), Algemene regeling zaaksbehandeling Rechtspraak, available at: [https://www.rechtspraak.nl/coronavirus-\(COVID-19\)/Paginas/COVID-19-Algemene-regeling-zaaksbehandeling-Rechtspraak.aspx](https://www.rechtspraak.nl/coronavirus-(COVID-19)/Paginas/COVID-19-Algemene-regeling-zaaksbehandeling-Rechtspraak.aspx)

⁴⁴ The Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2020), Algemene regeling zaaksbehandeling Rechtspraak : 1.2 Gebruik Veilig mailen voorziening van de Rechtspraak, available at: [https://www.rechtspraak.nl/coronavirus-\(COVID-19\)/Paginas/COVID-19-Algemene-regeling-zaaksbehandeling-Rechtspraak.aspx](https://www.rechtspraak.nl/coronavirus-(COVID-19)/Paginas/COVID-19-Algemene-regeling-zaaksbehandeling-Rechtspraak.aspx)

⁴⁵ The Netherlands, Temporary Act COVID-19 Justice and Security (*Tijdelijke wet COVID-19 Justitie en Veiligheid*), 22 April 2020, available at: <https://wetten.overheid.nl/BWBR0043413/2020-04-24>

⁴⁶ The Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2020), 'Rechtszaken met procespartijen in de zittingszaal beperkt weer mogelijk', News release, 23 April 2020, available at: <https://www.rechtspraak.nl/Organisatie-en-contact/Organisatie/Raad-voor-de-rechtspraak/Nieuws/Paginas/Rechtszaken-met-procespartijen-in-de-zittingszaal-beperkt-weer-mogelijk-.aspx>

⁴⁷ Haenen, M. (2020), '40.000 strafzaken liggen op de plank', *NRC*, 30 April 2020, available at: <https://www.nrc.nl/nieuws/2020/04/30/40000-strafzaken-liggen-op-de-plank-a3998426>

Service (*Openbaar Ministerie*) has decided numerous times not to prosecute a case (sepot) because of the Corona crisis.⁴⁸

In **the Netherlands**, the authorities have not considered the use of alternatives to detention as part of the response to the outbreak of COVID-19. On its website, the Custodial Institutions Agency (*Dienst Justitiële Inrichtingen*) does give information about the measures it has taken during the Corona crisis.⁴⁹ The use of alternatives to detention is not one of them.

1.2.5 Freedom of movement

In **the Netherlands**, the government adopted the decision of the EU to tighten the entry conditions of persons wishing to travel to the Netherlands from third countries, until 15 May 2020.⁵⁰ This is a restriction on all non-essential travel of persons from third countries to Europe (all EU Member States, all Schengen members and the UK) in order to prevent the spread of COVID-19 virus. This means that persons not covered by the following exceptions cannot enter the Netherlands. The travel restriction does not apply to the following categories of persons: EU citizens (including UK nationals) and members of their families; Nationals of Norway, Iceland, Switzerland, Liechtenstein and their family members; third-country nationals holding a residence card or a residence permit in accordance with Directive 2003/109/EC (LTR Directive); third-country nationals who derive their right of residence from other European Directives or from the national law of a Member State; holders of a long-stay visa, including persons with a temporary residence permit (MVV); persons with an essential function.

The ban imposed by Belgium on all non-essential travel to and from other countries, including the Netherlands is still in force. Belgium imposed this ban on 18 March 2020.⁵¹ The border remains open for trade in goods and services. From 22 March cross-border commuters who work in crucial sectors can download a special vignette to place behind their car windscreen. This vignette will allow them to cross the border between the Netherlands and Belgium more quickly. It may not be used by others. The aim is to prevent cross-border commuters working in crucial sectors from being delayed at the border. The vignette can be downloaded from the website of the Belgian Crisis Centre. On 3 May 2020 the Dutch newspaper 'PZC' reported that this the ban imposed by Belgium will remain in force to 8 June 2020.⁵²

The borders between Germany and **the Netherlands** are open.⁵³ Both the Dutch government and the German government recommend only to cross the border when it is really necessary. The Dutch daily newspaper 'NRC' reported about the stops made by the Royal Netherlands Marechaussee at the

⁴⁸ NOS (2020), 'Verdachten niet vervolgd vanwege coronacrisis', 1 May 2020, available at: <https://nos.nl/nieuwsuur/artikel/2332456-verdachten-niet-vervolgd-vanwege-coronacrisis.html>

⁴⁹ The Netherlands, Custodial Institutions Agency (Dienst Justitiële Inrichtingen) (2020), Website, available at: <https://www.dji.nl/>

⁵⁰ The Netherlands, National Government (*Rijksoverheid*) (2020) 'Q and A for entry into the Netherlands (travel ban)', News Item, 18 March, 23h, available at: <https://www.netherlandsandyou.nl/latest-news/news/2020/03/18/q-and-a-for-entry-into-the-netherlands-travel-ban>

⁵¹ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over de grens met België', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/verkeer-vervoer-en-reizen/grens-belgie>

⁵² Van der Werf, (2020), 'Grens met België blijft tot en met 8 juni dicht voor niet-essentiële reizen', PZC, 3 May 2020, available at: <https://www.pzc.nl/zeeuws-nieuws/grens-met-belgie-blijft-tot-en-met-8-juni-dicht-voor-niet-essentielle-reizen-br-a9b957fc/>

⁵³ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Veelgestelde vragen over de grens met Duitsland', Web page, <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/verkeer-vervoer-en-reizen/grens-duitsland>

border between the Netherlands and Germany during the Easter weekend (10 April – 13 April).⁵⁴ The Royal Netherlands Marechaussee, the branch of the military tasked with patrolling Dutch borders, stopped motorists as they entered the country from Germany. They tried to convince people from Germany to turn around and not visit the Netherlands and to return to their homes.

In **the Netherlands**, the Minister of Justice and Security, the Minister for Legal Protection and the State Secretary for Justice and Security informed by letter to the House of Representative that the asylum proceedings which have been suspended on 16 March 2020 restart on 28 April 2020.⁵⁵ Asylum seekers will be housed first in an emergency shelter and after a period of time will be moved to the regular application centre at Ter Apel where the asylum proceedings will start.

1.3 Impact of measures on particular groups

Persons with disabilities

In **the Netherlands**, news programme 'RTL Nieuws' reported about a survey conducted by 'Ieder(in)', an organisation that represents people with a disability, which shows that 60 percent of people with disabilities indicate that the care they need has been stopped or diminished because of the corona epidemic. Almost half of them deteriorate physically due to the measures to prevent the spread of the Coronavirus.⁵⁶ The survey is based on a questionnaire answered by 532 people who form part of a panel (78% participants are people with a disability; and 18% are people who care for people with a disability). The study was conducted in the period 7-12 April 2020.⁵⁷ There are about 1.5 million people with a physical or mental disability in the Netherlands.⁵⁸

In **the Netherlands**, daily newspaper 'NRC' reported about the Association of the Care for People with Disabilities (*Vereniging Gehandicaptenzorg Nederland*) which notices that that the corona virus is relatively common among people with an intellectual disability under the age of sixty.⁵⁹ More than half of the proven infections among this group are persons under the age of sixty. This age is lower

⁵⁴ Heck, W. (2020), 'Het zou helpen als we de grenzen konden sluiten', NRC, 13 April 2020, available at:

<https://www.nrc.nl/nieuws/2020/04/12/het-zou-helpen-als-we-de-grenzen-konden-sluiten-a3996592>

⁵⁵ The Netherlands, Minister of Justice and Security / Minister for Legal Protection / State Secretary for Justice and Security (*Minister van Justitie and Veiligheid / Minister voor Rechtsbescherming / Staatssecretaris van Justitie en Veiligheid /*) (2020), 'Stand van zaken coronamaatregelen in de justitie-, veiligheids- en Migratieketen', Letter to House of Representatives, 15 April 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/23/tk-stand-van-zaken-coronamaatregelen-in-de-justitie-veiligheids-en-migratieketen/tk-stand-van-zaken-coronamaatregelen-in-de-justitie-veiligheids-en-migratieketen.pdf>

⁵⁶ RTL (2020), 'Corona raakt mensen met beperking ongekend hard: 'We zijn zo gefrustreerd'', *RTL News*, 21 april 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5096736/corona-hakt-er-bij-gehadnciaptent-jasmijn-zo-gefrustreerd>

⁵⁷ Ieder(In) (2020), 'Wat betekent de coronacrisis voor u? Uitkomsten van de panelraadpleging van Ieder(in) van 7 t/m 12 april 2020, available at

<https://iederin.nl/wp-content/uploads/2020/04/Resultaten-Panelenquete-april-2020.pdf>

⁵⁸ RTL (2020), 'Corona raakt mensen met beperking ongekend hard: 'We zijn zo gefrustreerd'', *RTL News*, 21 april 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5096736/corona-hakt-er-bij-gehadnciaptent-jasmijn-zo-gefrustreerd>

⁵⁹ Schreuder, A. (2020), 'Verstandelijke beperkte mensen relatief vaak op jonge leeftijd besmet', *NRC*, 16 April 2020, available at: <https://www.nrc.nl/nieuws/2020/04/16/verstandelijk-beperkte-mensen-relatief-vaak-op-jonge-leeftijd-besmet-a3996947>

than the figures of the overall population, where most infections in age groups above 60 years are registered.⁶⁰

Homeless people

In **the Netherlands**, daily newspaper 'De Volkskrant' published an article written by a representative of the Salvation Army in which he tells about the overcrowding in the shelters for the homeless.⁶¹ Some municipalities therefore have started to look for alternative shelters. On 27 March 2020 the national government adopted a guideline on how to organise a shelter of homeless people during the corona crisis.⁶² The guideline is intended for municipalities and shelter organisations and aims to ensure that homeless people are received as well as possible, while at the same time minimizing the risk of infection.

In **the Netherlands**, the national government announced in two separate news release that tenants cannot be evicted during the crisis⁶³ and, that homeowners are not allowed to be put on the street by mortgage lenders.⁶⁴

In **the Netherlands**, daily newspaper 'Eindhovens Dagblad' reported about the increasing number of labour migrants from Poland who have become homeless in the past month, due to the loss of their job. For many labour migrants shelter is arranged by their employment agency.⁶⁵

Older people

In **the Netherlands**, figures from Statistics Netherlands (CBS) show that in week 14 (30 March - 5 April) the mortality has doubled among residents of institutional households which include nursing and care homes for the elderly, due to the outbreak of Coronavirus.⁶⁶ In week 16 (ending 13-19 April), mortality in nursing and care homes declined for the first time.⁶⁷ However, this is still almost double the average over the first ten weeks of 2020. The most recent figures from Statistics Netherlands show that in week 17 (20-26 April) is 65% of the average over the first ten weeks of 2020.⁶⁸

⁶⁰ Schreuder, A. (2020), 'Verstandelijke beperkte mensen relatief vaak op jonge leeftijd besmet', *NRC*, 16 April 2020, available at: <https://www.nrc.nl/nieuws/2020/04/16/verstandelijk-beperkte-mensen-relatief-vaak-op-jonge-leeftijd-besmet-a3996947>

⁶¹ Cornel, V. (2020), 'Daklozen zitten op straat coronacrisis uit, met alle gevolgen van dien', *De Volkskrant*, 25 March 2020, available at: https://www.volkskrant.nl/columns-opinie/daklozen-zitten-op-straat-coronacrisis-uit-met-alle-gevolgen-van-dien-b096527a/?utm_campaign=shared_earned&utm_medium=social&utm_source=linkedin

⁶² The Netherlands, National Government (*Rijksoverheid*) (2020), 'Richtlijn voor opvang van dak- en thuislozen tijdens coronacrisis', News release, 27 March 2020, available at <https://www.rijksoverheid.nl/actueel/nieuws/2020/03/27/richtlijn-voor-opvang-van-dak--en-thuislozen-tijdens-coronacrisis-vastgesteld>

⁶³ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Geen huisuitzettingen en verlening tijdelijke huurcontracten', News release, 26 March 2020, available at <https://www.rijksoverheid.nl/actueel/nieuws/2020/03/26/geen-huisuitzettingen-en-verlening-tijdelijke-huurcontracten>

⁶⁴ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Geen gedwongen verkopen van huizen gedurende coronacrisis', News release, 7 April 2020, available at <https://www.rijksoverheid.nl/actueel/nieuws/2020/04/07/geen-gedwongen-verkopen-van-huizen-gedurende-coronacrisis>

⁶⁵ Elshout, D. (2020), 'Corona leidt tot meer daklozen in Eindhoven', *Eindhovens Dagblad*, 17 April 2020, available at <https://www.ed.nl/eindhoven/corona-leidt-tot-meer-daklozen-in-eindhoven-a18f15e7/>

⁶⁶ Netherlands Statistics (2020), 'Sterfte onder bewoners van institutionele huishoudens bijna verdubbeld', News release, 16 April 2020, available at <https://www.cbs.nl/nl-nl/nieuws/2020/16/sterfte-onder-bewoners-van-institutionele-huishoudens-bijna-verdubbeld>

⁶⁷ Netherlands Statistics (2020), 'Sterfte onder bewoners van institutionele huishoudens bijna verdubbeld', News release, 24 April 2020, available at: <https://www.cbs.nl/nl-nl/nieuws/2020/17/sterfte-onder-bewoners-van-verpleeg-en-verzorgingshuizen-nu-ook-gedaald>

⁶⁸ Netherlands Statistics (2020), 'Sterfte in verpleeg- en verzorgingshuizen daalt vertraagd', News release, 1 May 2020, available at : <https://www.cbs.nl/nl-nl/nieuws/2020/18/sterfte-in-verpleeg-en-verzorgingshuizen-daalt-vertraagd-verder>

In **the Netherlands**, the national government decided that from 19 March 2020 onwards nursing and care homes for the elderly must be closed for visitors.⁶⁹ On 27 April the Minister of Health, Welfare and Sport told in an interview with daily newspaper 'Nederlands Dagblad' that under strict conditions several nursing and care home for the elderly will be opened for visitors.⁷⁰

At the beginning of the Corona crisis, the national government stated that people should limit their visits to the elderly who still live independently as much as possible. Visits were permitted, yet limited, preferably one-to-one and with due observance of the guidelines of National Institute for Public Health and the Environment (RIVM). That however was changed in early April to: "Don't visit people 70 or older." Since many healthy elderly people living at home no longer received visitors and suffered from loneliness and neglect. On 28 April the guidelines changed back to limited visits.⁷¹

In **the Netherlands**, the Dutch Patient Federation (*Patiëntenfederatie Nederland*) published the results of a survey which found that one third of people with home care or support from a district nurse receives less care or no care at all due to corona crisis.⁷² The survey is based on a questionnaire filled in by 10.000 participants (all participants have some health problem and need are need of care or a cure). This mainly concerns housing assistance, washing and dressing, domestic help, wound care, psychological help and daytime activities. This is because clients cancel home care because they are afraid of the Coronavirus or because they belong to a risk group or because they think that the care staff is too busy and their demand for care is not important enough. Many people in need of care can also receive less help of an informal caregiver because of fear of infection. These people risk social isolation and neglect.⁷³

2 Users' data - privacy and data protection

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

In **the Netherlands**, the Dutch government announced its intention to develop two apps to fight COVID-19 on a press conference held on 7 April 2020.⁷⁴ One app should alert people if they had been in contact with someone who has coronavirus, and the other app should enable people who show symptoms of COVID-19 to get and remain in touch with physicians. During the press conference the minister of Health, Welfare and Sport mentioned only the possibility of the use of Bluetooth. He did

⁶⁹ The Netherlands, National Government (Rijksoverheid) (2020), 'Bezoek verpleeghuizen niet langer mogelijk vanwege corona', News release, 19 March 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/03/19/bezoek-aan-verpleeghuizen-niet-langer-mogelijk-vanwege-corona>

⁷⁰ Beverdam, G. (2020), 'Minister de Jonge wil vanaf 11 mei test met bezoek in verpleeghuizen', Nederlands Dagblad, 27 April 2020, available at: <https://www.nd.nl/nieuws/politiek/968522/de-jonge-wil-vanaf-11-mei-weer-bezoek-toelaten-in-aantal-verpleeg>

⁷¹ ANBO (2020), 'ANBO: thuiswonende 70-plusser kan gewoon bezoek ontvangen', ANBO 28 April 2020, available at <https://www.anbo.nl/nieuws/anbo-thuiswonende-70-plusser-kan-gewoon-bezoek-ontvangen>

⁷² Dutch Patient Federation (*Patiëntenfederatie Nederland*) (2020), Uitstel geplande zorg door de coronacrisis, available at: https://www.patiëntenfederatie.nl/images/stories/dossier/Ziekenhuiszorg/17042020_Flitspeiling_Uitstel_onderzoek_en_behandeling_2.pdf

⁷³ Dutch Patient Federation (*Patiëntenfederatie Nederland*) (2020), Uitstel geplande zorg door de coronacrisis, available at: https://www.patiëntenfederatie.nl/images/stories/dossier/Ziekenhuiszorg/17042020_Flitspeiling_Uitstel_onderzoek_en_behandeling_2.pdf

⁷⁴ The Netherlands, National Government (Rijksoverheid) (2020), *Letterlijke tekst persconferentie minister-president Rutte en minister De Jonge na afloop van crisisberaad kabinet*, 7 April 2020, available at: <https://www.rijksoverheid.nl/documenten/mediateksten/2020/04/07/letterlijke-tekst-persconferentie-minister-president-rutte-en-minister-de-jonge-na-afloop-van-crisisberaad-kabinet>

not mention the possibility of GPS (he did not rule it out either). The possibility of the use of GPS data was only mentioned by one of the journalists who asked a question to the minister. On 11 April 2020, the Dutch government opened a tender for developers to submit proposals for such apps.⁷⁵ The tender closed on noon 14 April 2020. On 15 April 2020 the Minister of Health in a letter to parliament specifies the requirements the apps have to fulfil.⁷⁶ These requirements included that the source code and design must be available and there is no central storage of personal or location data. On 17 April 2020 the Ministry of Health, Welfare and Sport informed by a news release that it had 660 proposals of which 7 made it to a short list.⁷⁷ These 7 proposals were tested during an appathon held on 18 and 19 April. On 19 April 2020, the newspaper 'NRC' reported that none of the shortlisted proposals fulfilled the requirements of the government.⁷⁸ In the meantime the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*), the State Advocate (*Landsadvocaat*) and KPMG were asked by the Ministry of Health, Welfare and Sport to assess the 7 shortlisted-apps. On 20 April 2020 the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) published its assessment about the shortlisted apps which states that it cannot assess the apps as the Ministry of Health, Welfare and Sport has not made the frameworks clear enough and the proposals have not been sufficiently developed.⁷⁹ The State Advocate (*Landsadvocaat*) concludes that the speed of the process and the limited information available made it impossible to say if the proposed apps met the legal standards.⁸⁰ KPMG concluded in its assessment report that they found many security problems in six of the seven apps : the developers did not programme securely and took hardly any security measures.⁸¹

In **the Netherlands**, the Minister of Health, Welfare and Sport (*Minister van Volksgezondheid, Welzijn en Sport*) informed by letter the House of Representatives that none of the apps on the shortlist fulfilled the requirements.⁸² In the letter he stated his intention to establish a new team of experts and builders to come up with an app which does meet the government's guidelines in terms of information security, privacy, basic rights, national security and inclusion.

⁷⁵ The Netherlands, Tendernet (2020), 'Uitnodiging slimme digitale oplossingen Corona. Ministerie van Volksgezondheid, Welzijn en Sport', Web page, available at: <https://www.tendernet.nl/tendernet-tap/aankondigingen/192421>

⁷⁶ The Netherlands, Minister of Health, Welfare and Sport (*Ministerie Volksgezondheid, Welzijn en Sport*) (2020), 'COVID-19, Update stand van zaken', Letter to the House of Representatives, 15 April 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/15/covid-19-update-stand-van-zaken/COVID-19+Update+stand+van+zaken.pdf>

⁷⁷ The Netherlands, Ministry of Health, Welfare and Sport (*Ministerie van Volksgezondheid, Welzijn en Sport*) (2020), 'Zeven apps doen mee aan publieke test komend weekend', News release, available at:

<https://www.rijksoverheid.nl/actueel/nieuws/2020/04/17/zeven-apps-doen-mee-aan-publieke-test-komend-weekend>

⁷⁸ Wassens, R. (2020), 'Ministerie kleunt mis met appathon', *NRC*, 19 April 2020, available at:

<https://www.nrc.nl/nieuws/2020/04/19/ministerie-kleunt-mis-met-appathon-a3997235>

⁷⁹ The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), Onderzoeksrapportage bron- en contactopsporingsapp, 20 April 2020, available at:

https://autoriteitpersoonsgegevens.nl/sites/default/files/atoms/files/onderzoeksrapportage_bron-en_contactopsporingsapps.pdf

⁸⁰ The Netherlands, State Advocate (*Landsadvocaat*) (2020), Openbare samenvatting privacyanalyses bron- en contactonderzoekapps, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/04/19/samenvatting-privacy-analyse-contactonderzoekapps/Samenvatting+privacy-analyse+contactonderzoekapps.pdf>

⁸¹ KPMG (2020), Securitytest potentiële Corona-app, Eindrapportage, 19 April 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/04/19/rapportage-veiligheidstest-potentiele-corona-apps/Finale+rapportage+Ministerie+van+VWS+Corona+Apps+19042020+definitief.pdf>

⁸² The Netherlands, Minister of Health, Welfare and Sport (*Ministerie Volksgezondheid, Welzijn en Sport*) (2020), 'Kamerbrief COVID-19', Letter to the House of Representatives, 21 April 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/04/21/kamerbrief-covid-19-update-stand-van-zaken/PG-204449+A.pdf>

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

In the Netherlands, the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) issued a press release because of ideas circulating in the media and on internet about the use of location data of individual persons in response to the COVID19 outbreak.⁸³ In the press release the Dutch Data Protection Authority states that using location in the fight against the coronavirus is not completely impossible, but is legally only possible by an act of parliament.

On 6 May 2020, in the Netherlands, the Minister of Health, Welfare and Sport informed the House of Representatives that the government, after consultation with Dutch Data Protection Authority, asked telecom providers to provide telecom data National Institute for Public Health and the Environment (RIVM).⁸⁴ RIVM can use these data in their scientific calculation models about the Coronavirus. The news website 'Nu.nl' reported a day later that telecom companies like TNO, Vodafone and T-Mobile deny having received any request by the government to provide data to the RIVM.⁸⁵ A spokesperson of the RIVM states that says that telecom data may help determine whether people are following the governments' advice and guidelines, but stresses that this idea is still in an "initial phase."⁸⁶ It remains to be seen what exactly RIVM could do with the data. The Dutch Data Protection Authority states that it did receive from the government several proposals about the use of telecom data, but that they do not comply with the law. "There is no approval from the Dutch Data Protection Authority for sharing telecom data," said a spokesperson of the DPA.⁸⁷ A day later, on 7 May 2020, the Minister of Health, Welfare and Sport sent a letter to House of Representatives in which he rectifies some information in the letter of 6 May 2020. There has been no consultation between the Minister and the Dutch Data Protection Authority, only talks between officials of the Ministry and the DPA. In this letter he also announces that an amendment to the Telecommunication Act (*Telecommunicatiewet*) is being prepared in order to create a sound legal basis for sharing telecom data during a pandemic.⁸⁸

⁸³ The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), 'Gebruik telecomdata tegen corona kan alléén met wet', Press release, 1 April 2020, available at:

<https://autoriteitpersoonsgegevens.nl/nl/nieuws/gebruik-telecomdata-tegen-corona-alleen-met-wet>

⁸⁴ The Netherlands, Minister of Health, Welfare and Sport (*Ministerie Volksgezondheid, Welzijn en Sport*) (2020), 'COVID-19', Update stand van zaken', Letter to the House of Representatives, 6 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/06/kamerbrief-covid-19-update-stand-van-zaken/Update+corona+6+mei+2020.pdf>

⁸⁵ Nu.nl (2020), 'Providers spreken minister tegen: Niet gevraagd om telecomdata in coronastrijd', News item, 7 May 2020, available at: <https://www.nu.nl/tech/6049634/providers-spreken-minister-tegen-niet-gevraagd-om-telecomdata-in-coronastrijd.html>

⁸⁶ Nu.nl (2020), 'Providers spreken minister tegen: Niet gevraagd om telecomdata in coronastrijd', News item, 7 May 2020, available at: <https://www.nu.nl/tech/6049634/providers-spreken-minister-tegen-niet-gevraagd-om-telecomdata-in-coronastrijd.html>

⁸⁷ Nu.nl (2020), 'Providers spreken minister tegen: Niet gevraagd om telecomdata in coronastrijd', News item, 7 May 2020, available at: <https://www.nu.nl/tech/6049634/providers-spreken-minister-tegen-niet-gevraagd-om-telecomdata-in-coronastrijd.html>

⁸⁸ The Netherlands, Minister of Health, Welfare and Sport (*Ministerie Volksgezondheid, Welzijn en Sport*) (2020), 'Rectificatie Kamerbrief', Letter to the House of Representatives, 7 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/07/kamerbrief-over-rectificatie-kamerbrief/kamerbrief-over-rectificatie-kamerbrief.pdf>

2.3 Privacy and data protection concerns and possible solutions

In the Netherlands, after the Dutch government announced its intention to develop two apps to fight the Coronavirus on a press conference held on 7 April 2020⁸⁹ several actors showed their concerns about the use of apps to fight COVID-19.

A coalition of NGOs and experts (using the name 'Safe against Corona') published a manifest which specifies the requirements which any apps fighting COVID-19 should fulfil.⁹⁰ Apps should be effective, reliable, temporary, transparent, completely anonymous, voluntary and user friendly, free of commercial interests, and they should be brought under the control of independent experts. The coalition calls on the minister to acknowledge and meet these demands.

In the Netherlands, more than 60 scientists and experts sent a letter to the expressing their concerns about the developments of apps to fight COVID-19.⁹¹ They wrote that the use of apps in the corona crisis is far-reaching, so it is important to critically examine the usefulness, necessity and effectiveness of such apps, and the social and legal impact of these, before the governments decided to use them. The scientists also stressed that technology is rarely the solution to a particular problem.

2.4 Any other privacy and data protection concerns

In the Netherlands, the Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) states in a press release that it received numerous reports about employers who- who measure the body temperature of their employees before they can enter.⁹² Or measure the temperature of their visitors, such as truck drivers who come to unload cargo. However, these organizations are in violation and therefore risk a fine the Dutch Data Protection Authority (AP) warns in this press release.

The Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) states in a press release that it received numerous signals from parents, teachers, pupils and students who are concerned about personal data collected during distance learning.⁹³ For example, they wonder whether the systems that schools use to make video calls are safe, whether data cannot fall into the wrong hands and what exactly happens to all that data. The Dutch Data Protection Authority (AP) shares these concerns and therefore will therefore check school and other educational institutions whether they are making sufficient efforts to protect the privacy of their pupils or students.

⁸⁹ The Netherlands, National Government (*Rijksoverheid*) (2020), *Letterlijke tekst persconferentie minister-president Rutte en minister De Jonge na afloop van crisisberaad kabinet*, 7 April 2020, available at: <https://www.rijksoverheid.nl/documenten/mediateksten/2020/04/07/letterlijke-tekst-persconferentie-minister-president-rutte-en-minister-de-jonge-na-afloop-van-crisisberaad-kabinet>

⁹⁰ Safety against Corona (*Veilig tegen Corona*) (2020), 'Protect our health and protect our rights', Manifesto 8 April 2020, available at: <https://www.safeagainstcorona.nl/>

⁹¹ Muller, C, et al (2020), 'Inzake: COVID-19 tracking- en tracingapp en gezondheidsapp', Letter sent to Minister-president, Minister of Health, Welfare and Sport, and Minister of Justice and Security, 13 April 2020, available at: <https://allai.nl/wp-content/uploads/2020/04/Online-versie-Brief-Minister-President-Rutte-Ministers-De-Jonge-Van-Rijn-Grapperhaus-de-heer-Sijbesma-inzake-COVID-19-tracking-en-tracing-en-gezondheidsapps.pdf>

⁹² The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), 'AP: temperatuur meten mag niet zomaar', Press release, 24 April 2020, available at: <https://autoriteitpersoonsgegevens.nl/nl/nieuws/ap-temperatuur-meten-mag-niet-zomaar>

⁹³ The Netherlands, Dutch Data Protection Authority (*Autoriteit Persoonsgegevens*) (2020), 'Zorgen om dataverzameling bij thuis onderwijs', Press release, 23 April 2020, available at: <https://autoriteitpersoonsgegevens.nl/nl/nieuws/zorgen-om-dataverzameling-bij-thuisonderwijs>