

Coronavirus pandemic in the EU – Fundamental Rights Implications

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1 Measures taken by government/public authorities

1.1 Emergency laws/states of emergency

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 8 May 2020.⁴ Subsequently, on 11 May 2020 in all safety regions emergency ordinances based on this latest model took force and are still in force at the end of May. These new emergency ordinances replaced the previous ordinances. The emergency ordinances of 11 May 2020 impose wide reaching restriction on public life and private life. For example: authorities will take action against groups of 3 or more people in public spaces, 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); restaurants, cafés, bars, casinos, coffeeshops and play halls must be closed. The latest emergency ordinances of 11 May 2020 are amended in line with the lifting of some restrictions on public life : the full or partial opening of primary schools, including special needs schools, day care centres, libraries and amusement parks, etc. Furthermore, people with jobs in the areas of health and beauty that involve physical contact are allowed to resume work (with the exception of sex workers). From now on, adults are also allowed to do sports outdoors in groups. However, all these activities are only permitted if people comply with specific conditions (including keeping 1,5 metres distance) and measures.

On 18 May 2020 **the Netherlands Institute for Human Rights (College voor de Rechten van de Mens)** responds for the first time to the emergency ordinances and the impact these ordinances have on the human rights in the Netherlands.⁵ It states that the legal basis of these emergency ordinances is shaky. The Dutch Constitution stipulates that major restrictions of rights must be enshrined in an act made by parliament. This principle is not met by the restrictions laid down in the emergency ordinances. The Safety Regions Act (*Wet veiligheidregio's*) and article 176 of the Municipality Act (*Gemeentewet*)

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), Modelnoodverordening COVID-19 bij aanwijzing van 8 mei 2020, available at: https://www.veiligheidsberaad.nl/?jet_download=4045

⁵ The Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2020), 'Wettelijke basis voor vrijheidsbeperkende coronamaatregelen moet steviger', Web page, 18 May 2020, available at: <https://mensenrechten.nl/nl/coronavirus-en-mensenrechten>

offer some scope to impose short-term restrictions on freedom rights through an emergency ordinance (for example in order to temporarily evacuate houses in a certain area to render a bomb from World War II harmless). But these acts offer no basis for a lengthy and extensive restriction of fundamental rights as is the case in the present Corona crisis.⁶ The Netherlands Institute for Human Rights states that the Dutch government is working on a special Emergency Act to replace the regional emergency ordinances.⁷

In **the Netherlands**, the Advisory Division of the Council of State (*Raad van State*) published a report in which the emergency ordinances are assessed on how they relate to fundamental rights as laid down in the Dutch constitution, the ECHR and the EU Charter of fundamental rights.⁸ The Council of State states that the drastic restriction of fundamental rights by the emergency ordinances does not strictly correspond to the specific legal basis that the Constitution requires for such a restriction. It is, however, justifiable that in the acute initial phase of the pandemic these emergency ordinances were implemented. But as the Corona crisis continues restriction on fundamental rights must have a better legal foundation. The Council of State urges the national government and parliament to adopt a special Emergency Act to replace the regional ordinances. The Council State points out that the present emergency ordinances do not allow for any review by parliament in contrast to a special act which must parliament first.

In **the Netherlands** the preliminary relief judge (*voorzieningenrechter*) of the District Court The Hague decided that the mayor of The Hague (as chair of the safety region) may limit demonstrations to a maximum of 30 participants under the regional emergency ordinance.⁹ The case was initiated by action group Code Rood and the Public Interest Litigation Project (PILP), which is part of the Dutch Section of the International Commission of Jurists (NJCM).¹⁰ Action group Code Rood wanted to demonstrate in front of the Shell headquarters in The Hague with 100 people, in a square that allows the gathering of 300 people in accordance with the 1.5 metre distance rule. The action group had indicated that it will adhere to the anti-corona measures by keeping sufficient distance, arranging and wearing masks, facilitating the possibility of washing hands and disinfecting all protest materials regularly. The mayor of The Hague decided that no more than 30 people are allowed to demonstrate. The Mayor based his decision on the Dutch Public Assemblies Act, which allows for restrictions to be taken in the context of public health. The Mayor links this legal basis for restrictions to the regional emergency ordinance, which states that religious gatherings may only take place with a maximum of 30 people. Code Rood did not agree with this limitation of their right to demonstrate and started a procedure (a request for preliminary injunction) to ensure that the envisioned demonstration with 100 people can still take place. The preliminary relief judge refused the preliminary injunction request. According to the judge, the restriction by the mayor has been sufficiently motivated. Also, the judge

⁶ The Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2020), 'Wettelijke basis voor vrijheidsbeperkende coronamaatregelen moet steviger', Web page, 18 May 2020, available at: <https://mensenrechten.nl/nl/coronavirus-en-mensenrechten>

⁷ The Netherlands, Netherlands Institute for Human Rights (*College voor de Rechten van de Mens*) (2020), 'Wettelijke basis voor vrijheidsbeperkende coronamaatregelen moet steviger', Web page, 18 May 2020, available at: <https://mensenrechten.nl/nl/coronavirus-en-mensenrechten>

⁸ The Netherlands, Advisory Division of the Council of State (*Afdeling Advisering van Raad van State*) (2020), *Voorlichting over grondwettelijke aspecten van (voor)genomen crisismaatregelen*, available at: <https://www.raadvanstate.nl/actueel/nieuws/@121106/w04-20-0139-vo/>

⁹ The Netherlands, District Court The Hague (*Rechtbank Den Haag*) (2020), Case nrs. SGR 20/3493 BESLU en SGR 20/3494 BESLU, 18 May 2020, available at: <https://pilpnjcm.nl/wp-content/uploads/2020/05/uitspraak-code-rood2-3.pdf>

¹⁰ Public Interest Litigation Project - Dutch Section of the International Commission of Jurists (2020), 'Legal action against restriction of right to protest under anti-corona measures lost', News release, 18 May 2020, available at: <https://pilpnjcm.nl/en/lawsuit-against-restriction-protests-under-corona-measures-lost/>

states that the mayor may take alleged behaviour of Code Rood members during previous actions (before the Corona measures) into account to the detriment of the group.

1.2 Measures affecting the general population

1.2.1 Social distancing

In the Netherlands, physical distancing in public places is imposed by article 2.2 of the regional emergency ordinances. The regional emergency ordinances are based on a model provided by the national government.¹¹ These regional ordinances are amended regularly. On 11 May 2020, the latest version of these emergency ordinances took effect based again on a model provided by the national government.¹² Article 2.2 of the latest regional emergency ordinances prohibits any gathering of 3 or more people in public spaces, 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 issuing a fine of €390. People who are fined get a criminal record.

In the Netherlands, there are no official figures about the number of fines imposed by the police and special enforcement officers while enforcing physical distancing, but several news outlets have reported about the number of fines imposed. On 22 May 2020, public broadcaster NOS reports that by 10 May 2020 some 18,200 fines were imposed for failing to comply with the 1.5 metre rule or with the ban on public gatherings.¹³ Almost in half of the cases the fines were issued in an incorrect way according to the Public Prosecution Service. In 7,400 cases the Public Prosecution Service imposed a fine. Some 70 people did not agree with the fines imposed upon them and submitted a complaint. In the news item by the NOS, Theo de Roos, professor of Criminal Law and Criminal Procedure at Tilburg University and UV Amsterdam, advises all people who are fined to submit a complaint because in his opinion the emergency ordinances are unclear.¹⁴

1.2.2 Education

In the Netherlands an academic paper was published reporting on how parents school their children in primary and secondary education after the closure of all school on 16 March 2020.¹⁵ The data on a nationally representative sample of 1,318 children in primary and secondary education were gathered from 13 April to 28 April 2020. The results show marked differences between social groups. Whereas all parents find it important that their children keep up with the schoolwork, children from advantaged backgrounds receive much more parental support and have more resources (e.g., own computer) to study from home. Differences in parental support are driven by the ability to help parents with a higher education degree feels themselves much capable to help their children with schoolwork than lower educated parents. Parents also report that schools provide more extensive distant schooling for children in the academic track in secondary education than for children in the pre-vocational track. Finally, there is a clear gender gap: parents feel much more capable to support their daughters than

¹¹ The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), Modelnoodverordening COVID-19 bij aanwijzing van 8 mei 2020, available at: https://www.veiligheidsberaad.nl/?jet_download=4045

¹² The Netherlands, Safety Council (*Veiligheidsberaad*) (2020), Modelnoodverordening COVID-19 bij aanwijzing van 8 mei 2020, available at: https://www.veiligheidsberaad.nl/?jet_download=4045

¹³ Nos (2020), 'Bijna helft coronaboetes niet in orde, bijna niemand maakt bezwaar', 22 May 2020, nos.nl, available at: <https://nos.nl/collectie/13824/artikel/2334719-bijna-helft-coronaboetes-niet-in-orde-bijna-niemand-maakt-bezwaar>

¹⁴ Nos (2020), 'Bijna helft coronaboetes niet in orde, bijna niemand maakt bezwaar', 22 May 2020, nos.nl, available at: <https://nos.nl/collectie/13824/artikel/2334719-bijna-helft-coronaboetes-niet-in-orde-bijna-niemand-maakt-bezwaar>

¹⁵ Bol, T. (2020), Inequality in homeschooling during the Corona crisis in the Netherlands. First results from the LISS Panel. 30 April 2020, available at: <https://doi.org/10.31235/osf.io/hf32q>

their sons. These initial findings provide clear indications that the school shutdown in the Netherlands is likely to have strong effects on the inequality in educational opportunities.¹⁶

In **the Netherlands** the primary schools, including schools for pupils with special needs, and day-care centres reopened their doors for pupils on a part time basis on 11 May 2020.¹⁷ On 8 June 2020 the primary schools and day-care centres will re-open fully. The sectoral organisation for primary schools, the Primary Education Council (*PO-Raad*) has drafted in cooperation with various stake holders a protocol¹⁸ on how to re-open primary school and a protocol¹⁹ on how to reopen schools for pupils with special needs. These protocols indicate which safety measures have to be implemented to protect pupils and staff (including for example how to keep physical distance, how to interact on a personal level, maintain hygiene etc).

In **the Netherlands**, secondary schools, including secondary schools for students with special needs, will reopen for all students on 2 June 2020.²⁰ Schools will take measures to ensure that everyone can keep a distance of 1.5 metres. In practice, this means that not all students can attend school at the same time. The sectoral organisation for primary schools, the Secondary Education Council (*PO-Raad*) has drafted in cooperation with various stake holders a protocol²¹ on how to re-open secondary schools. These protocols indicate which safety measures have to be implemented to protect students and staff (including for example how to keep physical distance, maintain hygiene, how to organize the transport of the students etc).

In **the Netherlands**, schools for secondary vocational education, institutions for higher professional education and universities will reopen to a limited extent for exams, practical training and to provide support to vulnerable students on 15 June 2020.²²

In **the Netherlands**, the Minister for Education, Welfare and Sport announces that he will provide €244 million to primary, secondary and vocational schools in order to support pupils and students who need extra support because of the measures surrounding the corona crisis.²³ These extra funds will be given to schools to support pupils and students in the period from the 2020 summer holidays up to

¹⁶ Bol, T. (2020), *Inequality in homeschooling during the Corona crisis in the Netherlands*. First results from the LISS Panel. 30 April 2020, available at: <https://doi.org/10.31235/osf.io/hf32q>

¹⁷ The Netherlands, Ministry of Justice and Security / Ministry of Health, Welfare and Sport (*Ministerie van Justitie en Veiligheid / Ministerie van Gezondheid, Welzijn en Sport*) (2020), 'Changes to the coronavirus control measures from 11 May 2020', available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/changes-to-measures-from-11-may>

¹⁸ The Netherlands, Primary Education Council (*PO-Raad*) (2020), *Protocol Opstart basisonderwijs*, Version 6 May 2020, available at: <https://po.lesopafstand.nl/app/uploads/Protocol-opstart-basisonderwijs-versie-6-mei.pdf>

¹⁹ The Netherlands, Primary Education Council (*PO-Raad*) (2020), *Protocol opstart Speciaal Basisonderwijs (SBAO) / Speciaal Onderwijs (SO)*, Version 6 May 2020, available at: <https://po.lesopafstand.nl/app/uploads/Protocol-opstart-speciaal-basisonderwijs-en-speciaal-onderwijs-versie-6-mei.pdf>

²⁰ The Netherlands, Ministry of Justice and Security / Ministry of Health, Welfare and Sport (*Ministerie van Justitie en Veiligheid / Ministerie van Gezondheid, Welzijn en Sport*) (2020), 'Changes to the coronavirus control measures from 11 May 2020', available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/changes-to-measures-from-11-may>

²¹ The Netherlands, Secondary Education Council (*VO-Raad*) (2020), *Protocol van de sociale partners: Opstart voortgezet onderwijs*, available at: https://www.vo-raad.nl/system/downloads/attachments/000/000/949/original/Protocol_Opstart_VO.pdf?1590000696

²² The Netherlands, Secondary Education Council (*VO-Raad*) (2020), *Protocol van de sociale partners: Opstart voortgezet onderwijs*, available at: https://www.vo-raad.nl/system/downloads/attachments/000/000/949/original/Protocol_Opstart_VO.pdf?1590000696

²³ The Netherlands, Minister of Education, Culture and Science (*Minister van Onderwijs, Cultuur en Wetenschap*), (2020), 'Compensatie studenten en ondersteuningsmaatregelen onderwijs COVID-19', Letter to House of Representatives, 15 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/15/kamerbrief-compensatie-studenten-en-ondersteuningsmaatregelen-onderwijs-covid-19/kamerbrief-compensatie-studenten-en-ondersteuningsmaatregelen-onderwijs-covid-19.pdf>

and including the 2021 summer holidays to make up for unexpected delays by offering extra programmes in addition to the regular teaching time. Schools with more pupils or students at risk of educational disadvantage (pupils or students with parents with low educational levels) may apply for more funding to provide a programme for a larger proportion of their pupils or students. Moreover, schools with a lot of disadvantaged pupils are given priority over other schools if the total budget of €244 million is not sufficient.

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-19.²⁴ 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).²⁵

In **the Netherlands**, 12 financial schemes are implemented to support employers and employment during the Corona crisis.²⁶ The most important are Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud*) and Temporary bridging measure for self-employed professionals (*Tijdelijke overbruggingsregeling zelfstandig ondernemers* or Tozo).

In **the Netherlands**, the Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud* or NOW), which took effect on 4 April 2020 is amended and extended by three months on 5 May 2020.²⁷ Under the NOW employers facing turnover losses of more than 20% during three consecutive months in the period 1 March 2020 to 31 October 2020 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.

In **the Netherlands**, the Temporary bridging measure for self-employed professionals (*Tijdelijke overbruggingsregeling zelfstandig ondernemers* or Tozo) which took effect on 22 April 2020²⁸ is amended and extended by three months and will be in effect until 31 August 2020²⁹. Under this

²⁴ 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>

²⁵ 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>

²⁶ The Netherlands, National Government (*Rijksoverheid*), 'Overzicht financiële regelingen', Web page, <https://www.rijksoverheid.nl/onderwerpen/coronavirus-financiele-regelingen/overzicht-financiele-regelingen>

²⁷ The Netherlands, Temporary Emergency Bridging Measure for Sustained Employment (*Tijdelijke Noodmaatregel Overbrugging voor Werkbehoud*), 5 May 2020, available at: <https://wetten.overheid.nl/BWBR0043340/2020-05-05>

²⁸ 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>

²⁹ The Netherlands, Ministry of Social Affairs and Employment (*Ministerie van Sociale Zaken en Werkgelegenheid*) (2020), 'Tozo-regeling per 1 juni (Tozo 2)', Web page, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-financiele-regelingen/overzicht-financiele-regelingen/tozo/tozo-per-1-juni>

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 (€10,157) and must be paid back. A major amendment to the scheme is that the income of the living partner is considered when a self-employed person applies for income support.

According to **Statistics Netherlands** the number of people in paid employment fell by 160 thousand to 8.9 million in April 2020.³⁰ A fall of this magnitude in one month has not occurred before since monthly figures were compiled (from 2003). Among young people, the decline of more than 100 thousand was the largest.

In the **Netherlands**, as part of the lifting of restriction on catering establishments on 1 June 2020, the Koninklijke Horeca Nederland (KHN), the largest organisation representing hospitality businesses in the Netherlands, made a protocol adapted the government's guidelines to the catering establishments.³¹

In **the Netherlands** a study focusing on the situation in Rotterdam found that a quarter of the self-employed and flex workers report loss of income due to the current Corona crisis.³² Half of the self-employed and flex workers are afraid that they will lose income. The study was conducted by a survey in which 1,200 people took part and which took place from 3 April to 13 April.

In **the Netherlands** three slaughterhouses were temporarily closed by the authorities due to COVID-19 infections among its workers. On 20 May 2020 a slaughterhouse in Groenlo was closed because 45 employees workers tested positive for COVID-19.³³ Later 147 of its 657 employees were found to be infected with COVID-19. On 27 May 2020 a slaughterhouse in Apeldoorn was closed because of violation of physical distance rules during the transport of its employees.³⁴ On 28 May 2020 a slaughterhouse in Helmond was closed because after 21 employees tested positive for COVID-19 in a sample testing.³⁵

1.2.4 Access to justice

In **the Netherlands**, court buildings were reopened in a limited way on 11 May 2020.³⁶ Criminal cases, juvenile criminal cases and family law cases are prioritised. Hearings and interrogations will continue

³⁰ Netherlands Statistics (*Centraal Bureau voor de Statistiek*) (2020), '160 duizend minder mensen met werk in april', News release, 20 May 2020, available at: <https://www.cbs.nl/nl-nl/nieuws/2020/21/160-duizend-minder-mensen-met-werk-in-april>

³¹ The Netherlands, Koninklijke Horeca Nederland (2020), Protocol Hospitality Industry Reopening Protocol, available at: <https://www.khn.nl/tools/concept-protocol-hospitality-industry-reopening>

³² Van Toorn, M., Snel, E. and Wentink, T. (2020), 'Sociaaleconomische gevolgen van COVID-19', in: Engeberson, G. and Wentink, T. (eds.), *De bedreigde stad: de maatschappelijke impact van COVID-19 op Rotterdam*, Rotterdam, Kenniswerkplaats Leefbare Wijken, available at: <https://www.eur.nl/essb/media/2020-04-rapportdebedreigde-stad>

³³ Van Marsbergen, S. (2020), 'Slachterij Vion in Groenlo per direct dicht: bijna kwart personeel heeft corona'. AD, 20 May 2020. Available at: <https://www.ad.nl/binnenland/slachterij-vion-in-groenlo-per-direct-dicht-bijna-kwart-personeel-heeft-corona~a17a180f/>

³⁴ Nu.nl (2020), 'Slachthuis in Apeldoorn gesloten omdat medewerkers samen in busjes reizen', Nu.nl, 27 May 2020, available at: <https://www.nu.nl/coronavirus/6054037/slachthuis-in-apeldoorn-gesloten-omdat-medewerkers-samen-in-busjes-reizen.html?redirect=1>

³⁵ De Bruyn, R. (2020), 'Slachterij Van Rooi Meat in Helmond voorlopig dicht; een op de zes geteste werknemers besmet, Eindhovens Dagblad, 29 May 2020, available at: <https://www.ed.nl/helmond/slachterij-van-rooi-meat-in-helmond-voorlopig-dicht-een-op-de-zes-geteste-werknemers-besmet~a47f99c7/>

³⁶ The Netherlands, Council for the Judiciary (*Raad voor de Rechtspraak*) (2020), 'Gerechtsgebouwen aangepast aan anderhalvemetersamenleving', News release, 11 May 2020, <https://www.rechtspraak.nl/Organisatie-en->

to be held via telephone or videoconferencing as much as possible. Only the parties involved, and journalists may enter the court buildings, public is not allowed. The court rooms have been made 'corona-proof' to ensure that participants can safely remain at a distance from each other.

In **the Netherlands**, the Advocate-general of the Public Prosecution Service (*Openbaar Ministerie*) stated in a column published by the Dutch daily newspaper 'NRC' on 14 May 2020 that the backlog in criminal cases has increased to 55,000 during the Corona crisis.³⁷

In **the Netherlands**, the Dutch Association of Defence Counsel (*Nederlandse Vereniging van Strafrechtadvocaten*) states on its website that in police stations it is still not possible for criminal lawyers to speak with their clients in a safe way.³⁸ Consultation rooms are often too small to keep 1.5 metre distance and contain often no splash guards. In the interview rooms, there is usually only a splash guard between the police officer and the suspect, but not between the suspect and his lawyer. Moreover, in most interview rooms the space is too limited to allow the lawyer to sit at 1.5 metre from the suspect. The alternative of telephone assistance is not sufficient because the intercom function does not allow for a confidential call to be made.

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 1 June 2020.³⁹ 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 (MNV); 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 2020.⁴⁰ This ban will be lifted on 8 June 2020. On 30 May 2020 the Belgian authorities opened the borders for family visits and shopping.⁴¹ This was a surprise for the Dutch authorities who were not amused. 'A scandal', found the chair of the safety region Zeeland which borders Belgium.

contact/Organisatie/Raad-voor-de-rechtspraak/Nieuws/Paginas/Corona-Gerechtsgebouwen-aangepast-aan-anderhalvemetersamenleving.aspxx

³⁷ Simmelink, J. (2020), 'De achterstand is alleen buiten de strafrechter om op te lossen', *NRC*, 14 May 2020, available at: <https://www.nrc.nl/nieuws/2020/05/14/de-achterstand-is-alleen-buiten-de-strafrechter-om-op-te-lossen-a3999734>

³⁸ Dutch Association of Defence Counsel (*Nederlandse Vereniging van Strafrechtadvocaten*) (2020), 'Politiebureaus nog niet coronaproof: schending van recht op rechtsbijstand en risico voor gezondheid', News release, 15 May 2020, available at: <https://www.nvsa.nl/algemeen/politiebureaus-nog-niet-coronaproof-schending-van-recht-op-rechtsbijstand-en-risico-voor-gezondheid>

³⁹ 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>

⁴⁰ 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>

⁴¹ RTL Nieuws (2020), 'Boosheid omdat België 'opeens' grens opengooit, Zeeland zet extra boa's in', News release, 30 May 2020, available at: <https://www.rtlnieuws.nl/nieuws/nederland/artikel/5138496/verwarring-en-boosheid-om-openen-grenzen-door-belgie>

The borders between Germany and **the Netherlands** are open.⁴² Both the Dutch government and the German government recommend only to cross the border when it is really necessary.

In **the Netherlands** the asylum procedure which had been suspended on 16 March 2020 restarted on 28 April 2020.⁴³ Asylum seekers are housed first in an emergency shelter in Zoutkamp and after a period of time are moved to the regular application centre at Ter Apel where the asylum proceedings will start. The Immigration and Naturalisation Service started to interview asylum seekers by using videoconferencing systems on 1 May 2020.⁴⁴

1.3 Impact of measures on particular groups

- *Persons with disabilities*

In **the Netherlands**, the Minister of Health, Welfare and Sport informed parliament about the latest figures on the number of people infected by COVID-19 in care institutions for people with a disability as estimated by the National Institute for Public Health and the Environment (RIVM). This number was 1,200 (reference date 18 May 2020).⁴⁵ Besides this number there were also another 1,000 suspected, but unconfirmed, cases of COVID-19. 220 residents died by COVID-19 in a care institution for people with a disability (reference date 18 May 2020).⁴⁶ At 307 locations of one resident was infected by COVID-19. That is 12% of all locations.

In **the Netherlands**, the national government adopted a policy plan (strategy) on how on to achieve that people with a disability can participate in society in a safe and inclusive way, as long as COVID-19 affects daily life.⁴⁷ The strategy was submitted to parliament on 3 June 2020. Civil society organisations made a substantial contribution tot the strategy. Concrete elements of the strategy include: visits by relatives to people with a disability in an institution are resumed; daytime activities are resumed; achieving sufficient availability of tests and protective equipment; extensive support for

⁴² 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>

⁴³ The Netherlands, Minister of Justice and Security / Minister for Legal Protection / State Secretary for Justice and Security (*Minister van Justitie en Veiligheid / Minster 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>

⁴⁴ The Netherlands, Immigration and Naturalization Service (*Immigratie en Naturalisatiedienst*) (2020), 'Asylum procedures resumed via interview by videoconference', News release, 1 May 2020, available at:

<https://ind.nl/en/news/Pages/Asylum-procedures-resumed-via-interviews-by-videoconference-.aspx>

⁴⁵ 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, 20 May 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁴⁶ 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, 20 May 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁴⁷ The Netherlands, National Government (*Rijksoverheid*) (2020), 'COVID-19-strategie voor mensen met een beperking of chronische ziekte: 'een veilige terugkeer naar het gewone leven'', available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/06/04/covid-19-strategie-voor-mensen-met-een-beperking-of-chronische-ziekte-een-veilige-terugkeer-naar-het-gewone-leven/COVID-19-strategie+voor+mensen+met+een+beperking+of+chronische+ziekte.pdf>

informal caregivers and accessible crisis communication and information for everyone with a disability.

- *Persons with a migration background*

In **the Netherlands**, the association of antidiscrimination services handled 134 complaints about discrimination related to the Corona crisis in the period 1 January 2020 – 30 April 2020.⁴⁸ Most complaints were from people with a migration background and who originated from an East-Asian country.

Netherlands statistics published figures on excess mortality that in the first six weeks (9 March 19 April) of the COVID-19 epidemic the relative excess mortality was higher among people with a migration background (people whose parents are born outside the Netherlands) compared to people with a native Dutch background. 14% of all excess deaths in weeks 11 through 16 had a migration background.⁴⁹ Netherlands Statistics estimates that the mortality rate among the people with a native Dutch background is at up to 40% higher than normal. It estimates that the mortality rate among people with a migration background is at up to 50% higher than normal.

- *Labour migrants*

In **the Netherlands**, the forced closing of three slaughterhouses at the end of May focused public attention on the employment and housing conditions of labour migrants in the Netherlands. In the meat processing industry, some 12,000 people are employed. Approximately 80% of them are labour migrants. Newspaper 'NRC' interviewed 7 Rumanian labour migrants employed in a slaughterhouse.⁵⁰ They came to the Netherlands with promises about high salaries and good housing. Once in the Netherlands they signed contracts in the Dutch language, which they did not understand and worked more hours in the slaughterhouses than they were paid for. They are employed by employment agencies that also provide housing. Housing conditions are cramped. It is impossible often to maintain 1.5-metre distance. Newspaper 'NRC' made a visit to 4 locations where labour migrants are housed.⁵¹ It concludes that is impossible to keep a 1.5 distance at these locations.

⁴⁸ Fiere, B. en Van Bon, S. (2020), *Corona en discriminatiemeldingen in Nederland*, Discriminatie.nl, de landelijke vereniging van antidiscriminatievoorzieningen, available at: <https://discriminatie.nl/files/2020-05/corona-en-discriminatiemeldingen-20052020.pdf>

⁴⁹ Netherlands Statistics (*Centraal Bureau voor de Statistiek*) (2020), 'Nearly 9 thousand more deaths in first 9 weeks of COVID-19', News release, 15 May 2020, available at: <https://www.cbs.nl/en-gb/news/2020/20/nearly-9-thousand-more-deaths-in-first-9-weeks-of-covid-19>

⁵⁰ Endedijk, B. and Middel, M. (2020), 'Hoe Roemenen onder barre omstandigheden werken in Nederlandse slachthuizen', *NRC*, 27 May 2020, available at: <https://www.nrc.nl/nieuws/2020/05/27/de-mannen-en-vrouwen-die-het-vlees-snijden-a4001069>

⁵¹ Middel, (2020), 'Corona en arbeidsmigranten: de keuken delen ze met z'n vijftigen', *NRC*, 22 May 2020, available at: <https://www.nrc.nl/nieuws/2020/05/22/de-keuken-delen-ze-met-zn-vijftigen-a4000562>

2 Impact on fundamental rights of older people

2.1 Data/statistics

Where available, data should be disaggregated by age groups and sex.

2.1.1 Share of persons 60+ in the total number of persons in the community infected, recovered and died in relation to COVID-19.

- Infected by COVID-19.

In **the Netherlands**, the National Institute for Public Health and the Environment (RIVM) publishes a daily bulletin with data about COVID-19 including data about the number of persons infected by COVID-19.⁵² These data are based on reports made to the RIVM by the GGD's (the regional health centres). The bulletin published on 31 May 2020 disclosed that so far 46,442 persons have been infected by COVID-19 (36.9% men and 62.9% women, 0.2% no gender mentioned). 50.1% of the persons infected by COVID-19 are 60 years or older. The distribution of infections among the older age groups are: 3,652 (60-64 years old), 2,346 (65-69), 2,921 (70-74), 3,338 (75-79), 3,829 (80-84), 3,944 (85-89), 2,407 (90-94), 787 (older than 94). The distribution of infections among the older age groups in percentages are: 7.9% (60-64 years old), 5.1% (65-69), 6.3% (70-74), 7.2% (75-79), 8.2% (80-84), 8.5% (85-89), 5.2% (90-94), 1.7% (older than 94).

The National Institute for Public Health and the Environment always points out that the actual number of infections by COVID-19 is higher than these numbers because not everyone who may be infected is tested for the virus.

- Recovered from COVID-19

Not available.

- Died in relation to COVID-19

The National Institute for Public Health and the Environment (RIVM) publishes each day a bulletin with data about COVID-19 including data about the number of persons died in relation to COVID-19.⁵³ The bulletin published on 31 May 2020 disclosed that so far 5,956 died in relation to COVID-19 (55.1% men and 44.9% women).⁵⁴ 96.8% of the persons who died in relation to COVID-19 are 60 years or older. The distribution of deaths among the older age groups are in numbers: 161 (60-64 years old), 326 (65-69), 617 (70-74), 987 (75-79), 1,241 (80-84), 1,342 (85-89), 801 (90-94), 296 (older than 94). The distribution of deaths among the older age groups in percentages are: 2.7% (60-64 years old), 5.5% (65-69), 10.4% (70-74), 16.6% (75-79), 20.8% (80-84), 22.5% (85-89), 13.4% (90-94), 5% (older than 94).

Netherlands Statistics publishes figures on excess mortality during COVID-19 epidemic. Excess mortality is the mortality exceeding the level that would normally be expected during this period. In

⁵² The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), 'Current information about COVID-19 (novel coronavirus)', available at: <https://www.rivm.nl/en/novel-coronavirus-covid-19/current-information-about-novel-coronavirus-covid-19>

⁵³ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), 'Current information about COVID-19 (novel coronavirus)', Web page, available at: <https://www.rivm.nl/en/novel-coronavirus-covid-19/current-information-about-novel-coronavirus-covid-19>

⁵⁴ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), 'Epidemiologische situatie COVID-19 in Nederland', 31 May 2020, available at: https://www.rivm.nl/sites/default/files/2020-05/31-5-2020%20COVID-19_WebSite_rapport.pdf

the first nine weeks of the corona crisis (9 March 2020 -10 May 2020), there were almost 9,000 more deaths (estimated) than would normally be expected during this period.⁵⁵ This is the equivalent of an excess mortality rate of 32%. Mortality was higher among people aged 65 and over in particular. Relative excess mortality was an estimated 34% in this age group. Among the population under 65 years, relative excess mortality is estimated at 16%. The highest excess mortality is found in the age group 65 to 79 years.

Netherlands Statistics found that as of week 20 (11-17 May) mortality is below the level considered normal for this time of year.⁵⁶ It is a commonly known fact that periods of increased mortality are often followed by periods of low mortality; the latter is also known as under mortality. However, the under mortality does not mean that there have not been any deaths related to COVID-19.

2.1.2 Share of persons 60+ in the total number of persons in institutional settings infected, recovered and died in relation to COVID-19.

- Infected by COVID-19

The National Institute for Public Health and the Environment (RIVM) compiles figures on the number of persons who were infected by COVID-19 in nursing homes (*verpleeghuizen*) or care homes (*verzorgingshuizen*). These figures are estimates and are not included in the daily bulletins published by the National Institute for Public Health and the Environment (RIVM).

On 20 May 2020 the Minister of Health, Welfare and Sport informed parliament about the latest figures on the number of people infected by COVID-19 in nursing homes and care homes as estimated by the National Institute for Public Health and the Environment (RIVM). This number was 7,900 (reference date 18 May 2020).⁵⁷ Besides this number were also another 4,550 suspected, but unconfirmed, cases of COVID-19 in nursing homes and care homes. No information was given on average age or age groups. The total number of residents of nursing homes and care homes was approximately 120,000 on 1 January 2020. This means 7% of the residents were infected by COVID-19.

- Recovered from COVID-19

Not available.

- Died in relation to COVID-19

The National Institute for Public Health and the Environment (RIVM) compiles figures on the number of persons who died from COVID-19 in nursing homes (*verpleeghuizen*) and care homes (*verzorgingshuizen*). These figures are estimates and are not included in the daily bulletins published by the National Institute for Public Health and the Environment (RIVM). On 20 May 2020 the Minister of Health, Welfare and Sport informed parliament about the latest figures on the number of people in nursing and care homes who died in relation to COVID-19, as estimated by the National Institute for Public Health and the Environment (RIVM). This number was 2,500 (reference date 18 May

⁵⁵ Netherlands Statistics (*Centraal Bureau voor de Statistiek*) (2020), 'Nearly 9 thousand more deaths in first 9 weeks of COVID-19', News release, 15 May April 2020, available at: <https://www.cbs.nl/en-gb/news/2020/20/nearly-9-thousand-more-deaths-in-first-9-weeks-of-covid-19>

⁵⁶ Netherlands Statistics (*Centraal Bureau voor de Statistiek*) (2020), 'Mortality in times of corona', News release, 29 May,

⁵⁷ 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

2020).⁵⁸ No information was given on average age or age groups. The total number of residents of nursing homes and care homes was approximately 120,000 on 1 January 2020. This means 2% of the residents died in relation to COVID-19.⁵⁹

2.1.3 Number and type of institutions affected

On 20 May 2020 the Minister of Health, Welfare and Sport informed parliament about the latest figures on the number of nursing homes and care homes in which at least one patient was infected by COVID-19. This number was 982 (reference date 18 May 2020) or 40% of all nursing homes and care homes.⁶⁰

2.1.4 Do official statistics on mortality rates from COVID-19 include deaths of older persons in care homes? Has there been any critique of data collection with respect to care homes?

In the Netherlands, the official figures on the number of deaths from COVID-19, published by the National Institute for Public Health and the Environment (RIVM) do not contain deaths of older persons in nursing homes (*verpleeghuizen*) or care homes (*verzorgingshuizen*). Therefore, the National Institute for Public Health and the Environment (RIVM) has in cooperation with sectoral organization and Netherlands Statistics made estimates of the number of persons who died in nursing homes (*verpleeghuizen*) and care homes (*verzorgingshuizen*). On 20 May 2020 the Minister of Health informed parliament about the latest number of deaths from COVID-19 in nursing homes and care homes as estimated by the National Institute for Public Health and the Environment (RIVM) in cooperation with Netherlands Statistics.⁶¹

2.1.5 Independent studies published on the situation of older persons with respect to the impact of and responses to COVID-19

In the Netherlands, a study based on an online questionnaire filled in by 289 physicians, psychologists and nurses working in nursing homes consider the mental state of persons living in nursing homes.⁶² The respondents saw both an increase and a decrease in behavioural problems due to the outbreak

⁵⁸ 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁵⁹ 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁶⁰ 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁶¹ 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁶² Gerritsen, D., Leontjevas, R., Bakker, C., Koopmans, R., Smalbrugge, M. and Teunisse, S. (2020), Probleemgedrag bij verpleeghuisbewoners en COVID-19 maatregelen Voorlopige resultaten landelijke enquête, Nijmegen, UKON / Radboud UMC, available at: https://www.verenso.nl/_asset/_public/Dossiers/probleemgedragCOVIDenquete-UKON.pdf

of COVID-19 and the measures taken in these homes as response to COVID-19. Especially the ban on visits led to more calmness in the homes that was perceived as positive. Yet, the respondents also detected that some persons living in nursing homes showed an increase in apathy.

In **the Netherlands**, an organisation for the elderly, ANBO, conducted a poll study on how older persons experience the loosening of the restrictions.⁶³ The study is based a questionnaire filled in by some 5500 persons older than 65 in the period 19-21 May 2020. 4 in 10 respondent experience and increasing pressure as the corona measures are relaxed. They find it difficult to keep 1.5 metre distance, especially in the supermarkets. Despite the official recommendation to limit visits, nearly 60 percent of older people receive visits to their homes again.

In **the Netherlands** newspaper 'NRC' published an article on care and nursing homes which concludes that a lack of awareness, a restrictive and bureaucratic testing policy, and being 'last in queue' for personal protective equipment are among the likely reasons for the high number of deaths by COVID-19 in Dutch nursing and care homes.⁶⁴

2.2 COVID-19 measures targeting older people

Please indicate the age group/s concerned; e.g. 60+, 65+, 70+ etc.

Please consult and refer in particular to measures related to existing or planned national exit strategies (policies/measures).

Please report on developments for the reference period 1 May – 31 May (inclusive) and on any changes/revisions of measures reported in the 1st and 2nd bulletin regarding older people.

2.2.1 National guidelines/protocols in response to COVID-19 addressing older people

- in residential care homes (including protective equipment, visits etc.)

On 20 March 2020, nursing homes (*verpleeghuizen*) and care homes (*verzorgingshuizen*) were closed to visitors and to anyone not involved in the provision of basic care. On 11 May 2020 a limited number (26) of nursing homes and care homes opened their doors for visitors. This is the first step in lifting the restrictions on visits to nursing homes. Visits can only be made under certain conditions laid down in a protocol made by the major stakeholders (umbrella organisations and professional organisations).⁶⁵ From 25 May 2020 all nursing homes and care homes can open their doors to visitors when all conditions laid down in the protocol are met.⁶⁶

⁶³ Anbo (2020), 'Peiling ANBO: hoe ervaren ouderen versoepeling coronamaatregelen?', News release, 22 May 2020, available at: <https://www.anbo.nl/nieuws/peiling-anbo-hoe-ervaren-ouderen-versoepeling-coronamaatregelen>

⁶⁴ Valk, G. (2020), Weeda, F. and Wester, J. (2020), 'Toen de testen eindelijk kwamen, was het halve verpleeghuis besmet', NRC, 28 May 2020, available at: <https://www.nrc.nl/nieuws/2020/05/28/toen-de-testen-eindelijk-kwamen-was-het-halve-verpleeghuis-besmet-a4001211>

⁶⁵ Actiz et al (2020), *Handreiking voor bezoekbeleid verpleeghuizen in corona-tijd*, available at: <https://www.actiz.nl/stream/handleiding-bezoekregeling-verpleeghuizen>

⁶⁶ Actiz et al (2020), *Handreiking voor bezoekbeleid verpleeghuizen in corona-tijd*, available at: <https://www.actiz.nl/stream/handleiding-bezoekregeling-verpleeghuizen>

In **the Netherlands**, the National Institute for Public Health and the Environment (RIVM) has a special web page for health care workers who work in nursing home and on which guidelines on how to use protective equipment are published.⁶⁷

In **the Netherlands**, the Ministry of Health, Welfare and Sport and a team of professionals from hospitals, university medical centres, suppliers and manufacturers have combined forces to set up the National Consortium for Medical Devices (*Landelijk Consortium Hulpmiddelen*). The non-profit objective of the consortium is – in the national interest – to procure various medical devices that are in danger of running out.⁶⁸ The Consortium started on 23 March 2020.

In **the Netherlands** a poll conducted by the nurses association V&VN among its members shows that 51% of their members working in nursing homes, as home nurses or in hospitals don't have protective equipment, including face masks, while 36% say they feel pressure from bosses and colleagues to carry on working without proper protection.⁶⁹ 10,096 respondents took part in the poll. 45% of the respondent working nursing home indicated there was enough equipment

In **the Netherlands** a poll conducted by the trade union FNV 'Zorg en welzijn', found that some 60% of nursing home staff and people employed as home nurses are not wearing face masks while one in three hospital workers go without.⁷⁰ Survey was held among 1,357 care workers.

- in the community in general

In **the Netherlands** the national government advises people aged 70 and over to stay at home as much as possible and to don't have any visitors. People are advised not to visit anyone aged 70 or over, or anyone with health issues.⁷¹ An exception is being made for older people with a limited support network who live on their own and are not fully independent. To prevent social isolation, they may be visited on a regular basis by the same 1 or 2 people. During these visits all the general health rules still apply. This includes staying at least 1.5 metres apart. These regular visitors must stay at home if they develop cold-like symptoms, a fever or shortness of breath. On 20 May 2020 the Minister of Health, Welfare and Sport informed parliament that the official advice not to visit anyone aged 70 or over will be amended from 25 May 2020.⁷² People may visit persons aged 70 or over but they should be careful.

⁶⁷ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), 'Zorgmedewerkers buiten het ziekenhuis', Web page, available at: <https://www.rivm.nl/coronavirus-covid-19/professionals/buiten-ziekenhuis>

⁶⁸ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Opstart initiatief Landelijk Consortium Hulpmiddelen', News release, 23 March 2020, available at: <https://www.rijksoverheid.nl/actueel/nieuws/2020/03/24/opstart-initiatief-landelijk-consortium-hulpmiddelen> Institute

⁶⁹ V&VN (2020), 'Peiling V&VN: tekorten maskers houden aan, psychische druk hoog', News release, 1 May 2020, available at: <https://www.venvn.nl/nieuws/peiling-v-vn-tekorten-maskers-houden-aan-psychische-druk-hoog/>

⁷⁰ FNV (2020), 'Veel zorgpersoneel werkt nog steeds onbeschermd', News release, 19 May 2020, available at: <https://www.fnv.nl/nieuwsbericht/sectornieuws/zorg-welzijn/2020/05/veel-zorgpersoneel-werkt-nog-steds-onbeschermd>

⁷¹ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Dutch measures against coronavirus: basic rules for everyone', Web page, available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/basic-rules-for-everyone>

⁷² 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, 20 May 2020, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

But on the government website (on 31 May 2020) people are still recommended not to visit people aged 70 or over.⁷³

2.2.2 National guidelines/protocols on patient triage that apply age as the main and decisive criterion

In **the Netherlands**, upscaling hospital beds and transferring patients to other hospitals has been sufficient to avoid triage at the IC units in Dutch hospitals. The Netherlands Society of Intensive Care (*Nederlandse Vereniging voor Intensive Care*) has written a protocol for Intensive Care during the COVID-19 pandemic.⁷⁴ In this protocol triage at the admittance of IC Units is described as a “last resort solution” and “an extreme emergency measure and is best avoided.” Before triage is applied, all options have to be exploited, such as upscaling and transferring patients to other hospitals. The decision to proceed to triage is only taken nationally in a state of emergency (Phase 3), states the protocol. In the protocol for Phase 3, patients with a reasonably estimated short- and long-term survival less than 20%, are not admitted to the IC Units. These exclusion criteria are related to underlying suffering and to or in combination to an old biological age. Patients with an old biological age and who are immobile or bedridden, or/and who are categorized as ‘severely frail’, ‘very severely frail’, and ‘terminally ill’.⁷⁵

2.2.3 Targeted testing of residents and staff in residential care homes

- Is this laid down in a targeted policy/measure or done on an ad-hoc basis when a case has been detected?

In **the Netherlands** testing policy focuses on specific groups of people.⁷⁶ One such group are health care workers (including staff working in nursing homes and care homes). All healthcare workers with complaints or symptoms of COVID-19, and who provide direct care to a client or patient, are eligible for a test. A healthcare worker who has had symptoms of COVID-19, and who provides direct care to a patient or client and cannot be missed, is eligible for a test. Healthcare workers who have intensive contact with elderly or physically vulnerable patients have priority.

There is also a testing policy for persons belonging to risk groups.⁷⁷ People in risk groups have a higher risk of severe illness from COVID-19. All persons aged 70 years and older are considered to be a risk group. These people are eligible if they develop symptoms, and if confirmation of whether or not they

⁷³ The Netherlands, National Government (*Rijksoverheid*) (2020), ‘Dutch measures against coronavirus: basic rules for everyone’, Web page, available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/basic-rules-for-everyone>

⁷⁴ Netherlands Society of Intensive Care (*Nederlandse Vereniging Intensive Care*) (2020), *Draaiboek Pandemie Deel 1*. Versie 1.4, april 2020. Available at: <https://nvic.nl/sites/nvic.nl/files/200404%20Draaiboek%20Pandemie%20deel%201%20versie1.4.pdf>

⁷⁵ Netherlands Society of Intensive Care (*Nederlandse Vereniging Intensive Care*) (2020), *Draaiboek Pandemie Deel 1*. Versie 1.4, april 2020. Available at: <https://nvic.nl/sites/nvic.nl/files/200404%20Draaiboek%20Pandemie%20deel%201%20versie1.4.pdf>

⁷⁶ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), ‘Testing for COVID-19’, Web page, available at: <https://www.rivm.nl/en/novel-coronavirus-covid-19/testing-for-covid-19>

⁷⁷ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), ‘Testing for COVID-19’, Web page, available at: <https://www.rivm.nl/en/novel-coronavirus-covid-19/testing-for-covid-19>

have COVID-19 is important to determine the correct treatment or care. Also, in nursing homes and care home testing can be done easily when there is suspicion of an infection with the corona virus.⁷⁸

From 1 June 2020, anyone with corona-like complaints in the Netherlands, is eligible for testing.⁷⁹

- Data/statistics on testing & frequency of testing – institutions, residents, staff

In **the Netherlands** there is no specific information on the frequency of testing of residents and staff of care homes and nursing homes. The only available statistics on testing are about healthcare workers in general. On 30 April 2020, the National Institute for Public Health and the Environment (RIVM) provided data on the testing of all types of healthcare workers (working in hospitals, care homes, etc.) for the first (and until now only) time. Until then, 13,884 health workers between ages 18 to 69 years were tested positive with COVID-19. Of these healthcare workers, 458 have been reported as hospitalized, this is 3% of the total number of health care workers tested positive for COVID-19. Nine health care workers are reported to have died, they were between 45 and 69 years. Six of the deceased healthcare workers had underlying health problems. For the other three deceased healthcare workers this remains unknown.⁸⁰

2.2.4 Restrictions/bans on visits to residential care settings, and any (conditional) lifting of these restrictions

In **the Netherlands** a limited number (26) of nursing homes (*verpleeghuizen*) and care homes (*verzorgingshuizen*) opened their doors for visitors on 11 May 2020. Since 20 March 2020 all nursing home had closed their doors. This is the first step in lifting the restrictions on visits to nursing homes. Since 20 March 2020 all nursing home had closed their doors. Visits can only be made under certain conditions. Only one visitor per resident is allowed, all visitors are checked (by taking temperature) and visits are strictly scheduled. These condition are laid down in a protocol made by the major stakeholders (umbrella organisations and professional organisations).⁸¹ The lifting of restrictions on visits to nursing homes is monitored by researchers of the Radboud University and Maastricht University.⁸² The monitor found that in the week of 11 May (when 26 institutions opened their doors) 954 residents received visitors: 57% of the total number of residents who were capable of receiving a visit.

⁷⁸ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), 'Testbeleid risicogroepen COVID-19, version 21 April 2020', Web page at: available at: <https://lci.rivm.nl/testbeleid-risicogroepen-covid-19>

⁷⁹ Van de Klundert, M. and Kompeer, J. (2020). Vanaf 1 juni kan iedereen in Nederland op het coronavirus getest worden. NOS, 23 May 2020, available at: <https://nos.nl/collectie/13824/artikel/2334835-vanaf-1-juni-kan-iedereen-in-nederland-op-het-coronavirus-getest-worden>

⁸⁰ The Netherlands, National Institute for Public Health and the Environment (*Rijksinstituut voor Volksgezondheid en Milieu*) (2020), *COVID-19 en zorgmedewerkers - 30 april 2020*, available at: <https://www.rivm.nl/documenten/covid-19-en-zorgmedewerkers-30-april-2020>

⁸¹ Actiz et al (2020), *Handreiking voor bezoekbeleid verpleeghuizen in corona-tijd*, available at: <https://www.actiz.nl/stream/handleiding-bezoekregeling-verpleeghuizen>

⁸² Maastricht University / Radboud University (2020), *Gefaseerde en gecontroleerde aanpassing van de bezoekregeling in verpleeghuizen: Indrukken week 1, 18 mei 2020*, available at: <https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/publicaties/2020/05/20/gefaseerde-en-gecontroleerde-aanpassing-van-de-bezoekregeling-in-verpleeghuizen/Gefaseerde-en-gecontroleerde-aanpassing+van+de+bezoekregeling+in+verpleeghuizen+Indrukken+week+1.pdf>

From 25 May 2020 all nursing homes and care homes can open their doors to visitors⁸³ when all conditions laid down in a protocol⁸⁴ made by the major stakeholders (umbrella organisations and professional organisations) are met.

2.2.5 Restrictive measures for older people living in the community

In **the Netherlands** there are no restrictions specifically targeting older people. But the national government advises people aged 70 and over to stay at home as much as possible and to don't have any visitors. People are advised not to visit anyone aged 70 or over, or anyone with health issues.⁸⁵ An exception is being made for older people with a limited support network who live on their own and are not fully independent. To prevent social isolation, they may be visited on a regular basis by the same 1 or 2 people. During these visits all the general health rules still apply. This includes staying at least 1.5 metres apart. These regular visitors must stay at home if they develop cold-like symptoms, a fever or shortness of breath. On 20 May 2020 the Minister of Health, Welfare and Sport informed parliament that the official advice not to visit anyone aged 70 or over will be amended from 25 May 2020.⁸⁶ People may visit persons aged 70 or over but they should be careful. But on the government website (on 31 May 2020) people are still recommended not to visit people aged 70 or over.⁸⁷

2.2.6 Access to healthcare for older people for conditions unrelated to COVID-19

In **the Netherlands** the national government published guidelines on how to support and how to provide care for older people living in the community during the Corona crisis.⁸⁸ These guidelines targets professionals, family caregivers, and community members.

⁸³ 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, 20 May 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁸⁴ Actiz et al (2020), Handreiking voor bezoekbeleid verpleeghuizen in corona-tijd, available at:

<https://www.actiz.nl/stream/handleiding-bezoekregeling-verpleeghuizen>

⁸⁵ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Dutch measures against coronavirus: basic rules for everyone', Web page, available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/basic-rules-for-everyone>

⁸⁶ 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, 20 May 2020, available at:

<https://www.rijksoverheid.nl/binaries/rijksoverheid/documenten/kamerstukken/2020/05/20/kamerbrief-stand-van-zaken-covid-19/Kamerbrief+update+stand+van+zaken+Covid+19.pdf>

⁸⁷ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Dutch measures against coronavirus: basic rules for everyone', Web page, available at: <https://www.government.nl/topics/coronavirus-covid-19/tackling-new-coronavirus-in-the-netherlands/basic-rules-for-everyone>

⁸⁸ The Netherlands, National Government (*Rijksoverheid*) (2020), 'Zorg voor kwetsbare mensen die thuis wonen nader uitgewerkt', News release, 16 April 2020, available at: <https://www.rijksoverheid.nl/onderwerpen/coronavirus-covid-19/nieuws/2020/04/16/zorg-voor-kwetsbare-mensen-die-thuis-wonen-nader-uitgewerkt>

2.2.7 Support measures and promising practices targeting older people, including access to goods and services online and offline, social/psychological support, and use of digital tools and technology

In **the Netherlands** several organisations (Red Cross and the two biggest organisations for the elderly: ANBO and KBO-PCOB) opened hotlines which support older people living in the community.⁸⁹

In **the Netherlands**, the Leyden Academy on Vitality and Ageing and GetOud foundation created a story platform “Wij & corona” (We & Corona)⁹⁰ to give voice to older people. On this website older people talk how do they experience these times when strict measures to keep a safe distance from each other and to stay at home, have drastically changed their social lives. What do they worry about, what gives them hope and comfort, how do they spend their days?

In **the Netherlands** the Alzheimer Foundation launched an action ‘We won’t forget you’ (*We vergeten jullie niet*) for people with relatives in nursing home which were closed as part of the response to the COVID-19 outbreak.⁹¹ During this action people were encouraged to make a gesture (a poster, post card etc) showing people in nursing homes that they will not be forgotten.

2.2.8 Consultation of older people’s organisations and/or other civil society organisations in the design, implementation and review of COVID-19-related measures

In **the Netherlands**, the director of the Leyden Academy on Vitality and Ageing, Tineke Abma, criticized the lack of involvement of older people in the design and implementation of COVID-19-related measures.⁹² In the public debate about COVID-19 and how to contain or mitigate it the perspective of older citizens is lacking.

⁸⁹ Eén tegen eenzaamheid (2020), ‘Houd contact #eentegeneenzaamheid’, Web page, available at: <https://www.eentegeneenzaamheid.nl/campagne/even-niet-op-bezoek-laait-toch-van-je-horen/>

⁹⁰ Leyden Academy on Vitality and Ageing / Get oud (2020), ‘Wij & Corona’, Web site, available at: <https://wijencorona.nl/over-wij-corona/>

⁹¹ Alzheimer Foundation (Alzheimer Stichting) (2020), ‘We vergeten jullie niet’, Web page, available at: <https://www.alzheimer-nederland.nl/wevergetenjullieniet>

⁹² Abma, T. (2020), ‘Tineke Abma: involve older people in the corona measures’, Web page, 12 May 2020, Leiden, Leyden Academy on Vitality and Ageing available at: <https://www.leydenacademy.nl/involve-older-people-and-their-emic-perspective-in-the-design-and-implementation-of-corona-measures/>