

Coronavirus pandemic in the EU – Fundamental Rights Implications

Country: Poland

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

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

1.1 Emergency laws/states of emergency

In Poland, the main legal act adopted in response to the coronavirus pandemic with respect to extraordinary measures is the 4th COVID Act of 19 June 2020,¹ in force since 24 June 2020 and amended insignificantly in August 2020. The next COVID Act is currently being proceeded but it has not been adopted yet.

No state of emergency, as provided for in the Constitution, has been declared in Poland as of yet, although Article 230(1) of the fundamental act stipulates that in the case of threats to the to security of the citizenry, the President of the Republic may, on request of the Council of Ministers, introduce for a definite period no longer than 90 days, a state of emergency in a part of or upon the whole territory of the State.

Another crucial piece of legislation pertaining to anti-COVID activities in Poland is the Council of Ministers' Ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, whose latest version in the reporting period was adopted on 9 October 2020 and amended several times. In its § 1, the ordinance has continued to declare the state of epidemic in the entire territory of Poland. The ordinance provides for numerous limitations, orders and prohibitions aimed at combating the pandemic.

In August 2020, the ordinance introduced two new categories of areas, depending on the extent to which they were affected by the pandemic – “yellow” zones and “red” zones. For each type of zone, some additional restrictions applied (e.g. prohibition of the functioning of fitness clubs in red zones). The regularly updated appendices to the ordinance declared certain counties (*poviats*) in Poland yellow zones or red zones. This division has remained in force, however, on 10 October 2020 the whole territory of Poland was declared the yellow zone (except for the already existing or newly declared red zones), and since 24 October 2020 the entire country has been a red zone.

Legality of certain emergency measures introduced with relation to COVID-19 pandemic has been questioned, among others, by the Commissioner of Human Rights. In the recent letter of October 2020,² the Ombudsman indicated again that the obligation to cover nose and mouth, as imposed in the ordinance of 9 October 2020, lacked legal grounds. According to the Commissioner, the Constitution requires that such obligation should have been imposed by an act of the Parliament, not an ordinance of the Council of Ministers.

According to media information, several judgements of courts tackling the matter of legality of emergency measures have been issued so far. First, the District Court in Kościan has refused to initiate criminal proceedings against a man who allegedly did not comply with the obligation to cover nose

¹ Poland, [Act on interest-rate subsidies for investment loans offered to entrepreneurs affected as a consequence of COVID-19 and on simplified procedure for the approval of the agreement](#), 19 June 2020.

² Poland, Commissioner for Human Rights, [Letter to the Prime Minister](#), 13 October 2020.

and mouth, stating that the Council of Ministers had not been authorised to issue an ordinance imposing such a duty.³ A similar ruling has been delivered by District Court for Wrocław-Śródmieście, which lifted a fine imposed by the police on a person. The court emphasised that a prohibition of using certain green areas could not have been introduced in an ordinance, which is a piece of legislation inferior to an act.⁴ In another case, District Court in Suwałki initially fined a shop assistant who had refused to serve a client not wearing a face mask – finding the lack of legal grounds for the obligation to cover face and nose. The judgement was, however, reversed by the higher court, which acquitted the woman due to the fact that she had only followed her supervisors' orders (nevertheless, the court indicated the problem of the obligation's unlawfulness).⁵

1.2 Freedom of assembly

In Poland, a general prohibition of assemblies, introduced for the first time in April 2020,⁶ has still been remaining in force, with several modifications.

According to the provisions in force before the beginning of the reporting period,⁷ all assemblies were banned, except for those organised on the basis of a notification sent to a local municipality no earlier than 30 days and no later than 6 days before the day of the assembly, as well as the so-called cyclical assemblies, organised on the basis of a permission given by a voivode. Under Polish law, an ordinary assembly is a gathering of persons, in open space available for unspecified persons and in a specified place, whose aim is to hold a collective deliberation or to express a collective position on matters of public importance. A spontaneous assembly is an assembly that takes place with regard to the occurrence of a rapid and impossible to be predicted event relating to public sphere, which would be pointless or irrelevant to be held earlier from the point of view of the public debate.⁸ The number of participants of an assembly should not exceed 150 persons, they should be obliged to keep a minimum distance of 1,5 m and cover their nose and mouth. The prohibition, under certain circumstances, should not apply to assemblies organised by religious associations – for instance, provided that the number of participants does not exhaust 50% of a building's capacity (in red zones), a distance of 1,5 m is kept and that all the persons wear face covers. Events, meetings and gatherings of other type (other than those governed by the Law on assemblies – e.g. music concerts) were allowed if the total number of participants was lower than 50 persons (in red zones), 100 persons (in yellow zones) or 150 persons (in the rest of the territory). The obligation to cover nose and mouth should not apply to wedding ceremonies and other occasional parties, except for those organised in red zones. In such event, participants should be obliged to wear face covers until being seated in place where meals or drinks would be served.

³ Poland, District Court in Kościan, Decision of 3 June 2020, file no II W 71/20 (unpublished).

⁴ P. Nowosielska, [Sgdy kwestionują prowizoryczne zakazy i nakazy](#), Forsal.pl, 3 September 2020.

⁵ J. Ojczyk, [Sgd uniewinnił ekspedientkę, która nie obsłużyła klienta bez maseczki](#), Prawo.pl, 16 September 2020.

⁶ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 31 March 2020, § 14-15.

⁷ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 7 August 2020, version as of 29 August 2020, § 25.

⁸ Poland, [Law on assemblies](#), 24 July 2020, Article 3.

The abovementioned rules have been modified, first, on 5 September 2020. The limitation on the number of persons (50, 100 or 150) participating in events other than assemblies was lifted with relation to professional exams for doctors.

On 10 October 2020, a new regulation⁹ came into force that extended the yellow zone to the entire country's territory (except for the already or newly declared red zones). With regard to assemblies, the regulation maintained the limit of 150 participants, adding, however, the obligation that a distance of at least 100 m should be kept between different assemblies. The limit for the number of guests of wedding ceremonies in yellow zones was also lowered to 75 persons. Moreover, the new law provided that limits of participants should not apply to professional exams for judges and prosecutors.

The new regulation has been amended several times since its adoption. First, the amendment of 17 October 2020¹⁰ changed dramatically the limits of participants of assemblies to 10 (in red zones) and 25 (in yellow zones). Also, new rules for religious assemblies taking place inside buildings were introduced, stating that no more than 1 person per 4 square metres (in red zones) and 1 person per 7 square metres (in yellow zones) can attend, provided that they cover nose and mouth and maintain a distance of at least 1,5 m. Additionally, the limits of persons attending events other than assemblies were lowered to 10 (in red zones) and 20 (in yellow zones). The limits exceptions for professional exams were extended to those for statutory auditors and tax advisors. Second, the amendment of 19 October 2020 limited the number of wedding guests to 20 persons in yellow zones, as well as prohibited organising weddings in red zones.

Lastly, the amendment of 24 October 2020,¹¹ which became effective simultaneously with the entire territory of Poland being declared a red zone, limited the number of participants of an assembly to 5 persons. Furthermore, it prohibited organising events (i.e. meetings, gatherings) other than assemblies, except for professional meetings or meetings of up to 20 persons held in premises appointed as a residence of the event's organiser. The exception for professional exams was also extended by including those for real estate appraisers. For religious assemblies, the limit of 1 person per 7 square metres remains applicable.

On 22 October 2020, after the Constitutional Tribunal delivered a ruling¹² that effectively eliminated abortion due to a serious and irreversible birth defect of the foetus, massive protests started across the entire country that continue up to this day.¹³ During the night of 22/23 October, 35 persons were fined, and with regard to 89 other the police applied to the court for initiation of proceedings for misdemeanour. Another 200 persons were reported to the sanitary inspection, which is authorised to impose financial administrative penalty.¹⁴ No formal complaints or court rulings related to the freedom of assembly in times of pandemic could have been identified as of yet.

⁹ Poland, [Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 9 October 2020, § 1(2).

¹⁰ Poland, [Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 16 October 2020, § 1(6).

¹¹ Poland, [Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 23 October 2020, § 1(17).

¹² Poland, Constitutional Tribunal, [Judgement of 22 October 2020](#), case file K 1/20.

¹³ S. Walker, [Poland delays abortion ban as nationwide protests continue](#), Guardian, 3 November 2020.

¹⁴ A. Zygiel, [Protesty po wyroku TK ws. aborcji. 15 osób zatrzymanych, rmf24.pl](#), 23 October 2020.

1.3 Freedom of movement

Similarly to the freedom of assembly, Poland has continued to maintain certain restrictions when it comes to the freedom of movement. Many of them remained unchanged since the last reporting period.

The ordinance of the Council of Ministers, in its wording applicable in the beginning of the reporting period,¹⁵ provided for several limitations related to the freedom of movement. First, a prohibition of travelling by train that involved crossing external borders of the European Union was in force.¹⁶ This prohibition, as well as exceptions to it, have remained almost unchanged up to this day (their detailed description, although pertaining to the provisions in force 31 October 2020, is applicable to the earlier version). The only amendment, of 2 September 2020, has shortened the duration of quarantine for persons travelling to their places of residence in Poland, who were therefore exempt from the prohibition, from 14 to 10 days.¹⁷

Second, as of 29 August 2020, certain obligations were in force with relation to various forms of traffic.¹⁸ As regards foot traffic, it was obligatory to maintain the distance of 1,5 metres between persons, except for persons living in the same household or covering their mouth and noses while travelling. In means of public transport, certain limits of passengers applied. In red zones, it was not more than 50% of the number of seats or not more than 30% of the total number of standing places and seats, provided that at least 50% of seats remained unoccupied. (In the remainder of the territory, it was 100% of the number of seats or 50% of the total number of standing places and seats, and at least 50% of seats had to be empty). Moreover, in air traffic, only passengers whose body temperature was lower than 38 Celsius degrees, have filled a declaration on the state of their health and complied with the obligation of covering nose and mouth could be allowed on board. The duty of covering nose and mouth applied also to all passengers of public transport and passenger ships, as well as to persons travelling in private cars who did not live in the same household, with several exceptions for e.g. children below 4 years old, persons suffering from mental illnesses or with intellectual disabilities, drivers in means of public transport, priests during religious celebrations or flight personnel.¹⁹

On 12 September 2020,²⁰ an amendment lifted the limit of passengers in public transport in red zones, however, it was reinstated a week later (on 19 September 2020).²¹ This, as well as all of the other obligations related to various forms of traffic, remained in force as the ordinance of 9 October 2020

¹⁵ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 7 August 2020 (version as of 29 August 2020).

¹⁶ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 7 August 2020, § 2-3.

¹⁷ Poland, Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 2 September 2020, § 1(1).

¹⁸ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 7 August 2020, § 23.

¹⁹ Poland, Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 7 August 2020, § 24(1) and (3).

²⁰ Poland, Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 11 September 2020, § 1(3).

²¹ Poland, Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic, 18 September 2020, § 1(5).

became effective. On 17 October 2020, the limits for red zones (50% of the number of seats or 30% of seats plus standing places) were extended to the entire territory of the state.²²

On 24 October 2020, new obligations for two groups of persons were introduced with relation to age.²³ First, for persons who were at least 70 years old, the freedom of movement was limited to three situations: performing professional duties, fulfilling basic living needs and participating in religious ceremonies. Second, for persons younger than 16 years old, it was required to be accompanied by an adult while travelling from Monday to Friday between 8 a.m. and 4 p.m., except for going to or coming back from school.

According to the latest regulation of the Council of Ministers, as of 31 October 2020, only travelling by train that involved crossing external borders of the European Union remains almost entirely prohibited.²⁴

Persons crossing the border of Poland (being the external border of the EU) in order to travel to their places of residence in the territory of Poland are obliged to give certain information to the Border Guard (address where they are supposed to stay and phone number), as well as to undergo a 10-day quarantine, starting from the day following the day of their arrival.²⁵

Certain categories of persons crossing the border of Poland (being the external border of the EU at the same time) are exempt from quarantine, according to the regulation.²⁶ This group includes, first of all, persons who perform certain professions, e.g. aviation personnel, fishermen, sailors, professional drivers or employees of cross-border farms. In addition, quarantine does not apply to, among others, students, scholars, members of military personnel performing their professional duties, diplomats and professional athletes.

In particular, international flights from countries which are not included in a separate regulation issued by the Council of Ministers²⁷ are allowed, and their passengers are exempt from quarantine when landing in Poland. Flights from Russia, Ukraine and Belarus are allowed, however, their passengers have to undergo quarantine. The law does not provide also for any restrictions concerning internal flights. The exemption from quarantine applies, in addition, to EU citizens and their spouses and children, and to non-EU foreigners being spouses or children of Polish citizens, who cross the Polish border.

Moreover, on 30 October 2020, in the eve of the All Saints' Day (1 November) and the All Souls' Day (2 November), when hundreds of thousands of Poles traditionally travel to visit burial places of their deceased relatives, the government announced that entrance to all cemeteries would be forbidden

²² Poland, [Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 16 October 2020, § 1(4).

²³ Poland, [Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 23 October 2020, § 1(14).

²⁴ Poland, [Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 9 October 2020, version as of 31 October 2020, § 2(1).

²⁵ Poland, [Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 9 October 2020, version as of 31 October 2020, § 2(2).

²⁶ Poland, [Ordinance of the Council of Ministers on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 9 October 2020, version as of 31 October 2020, § 3.

²⁷ Poland, [Ordinance of the Council of Ministers on prohibitions in air traffic](#), 23 October 2020, § 1.

between 31 October 2020 and 2 November 2020, except for funeral ceremonies and activities resulting from them.²⁸

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

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

Health

During the reporting period, the Parliament adopted the amendments to the Act on the emergency notification system²⁹ and removed some formal requirements related to the employment of emergency medical dispatchers. The amendment aimed to facilitate the increase in the number of dispatchers during COVID-19 pandemic. Moreover, the Act gave power to voivodes (regional representatives of the government) to create additional dispatching centres to support the coordination of ambulances, guarantee appropriate response time, as well as ambulance accessibility. The amendment might improve the functioning of emergency notification system. According to the media reports, some regional emergency systems faced the problem of insufficient number of medical dispatchers.³⁰

Furthermore, one of the Council of Minister's regulations³¹ suspended patients' access to sanatorium and rehabilitation treatment until further notice.

In October 2020, the Minister of Health amended³² the standards of anesthesiological care and simplified the medical procedures of anaesthesia in hospitals established for the treatment of COVID-19 infections. According to the new standards, the anesthesiologists will be able to simultaneously anaesthetize multiple patients. Before the amendment they were allowed to anaesthetize only one patient at the same time. Moreover, the amendment gave the power to anaesthetize also to physicians who are currently during specialisation in anaesthesia. In order to anaesthetize patients they will have to have at accomplish 4 years of specialization in anesthesiology and a 6 months training in the intensive care unit.

²⁸ Poland, [Ordinance of the Council of Ministers amending the ordinance on establishing certain limitations, orders and prohibitions with respect to the occurrence of the state of epidemic](#), 30 October 2020, § 1(2)(6).

²⁹ Poland, The Act of 17 September 2020 on the amendment to the act on the emergency notification system, Journal of Laws of 2020, item 1899.

³⁰ Tok.fm, available at: <https://www.tokfm.pl/Tokfm/7,130517,23971072,w-poznanskim-pogotowiu-brakuje-dyspozytorow-w-co-trzeciej-karetce.html>, accessed 9 November 2020.

³¹ Poland, The Council of Ministers Regulation of 30 October 2020 on the amendment to the regulation on the establishment of certain restrictions, orders and bans in connection with the state of the epidemic, Journal of Laws of 2020, item 1917.

³² Poland, The Regulation of Minister of Health on the amendment to the regulation on the organizational standards of healthcare in the field of anesthesiology and intensive care, Journal of Laws of 2020, item 1751.

The government regulation³³ established so-called „senior hours” from Monday to Friday in all shops (including pharmacies), allowing only persons older than 60 years old to do shopping between 10 am and 12 am. Beside „senior hours” the shopping might be made by both seniors and regular clients. The restriction does not apply to the purchase of medicines in case of threat to life or health of the patient.

The amendment to one of COVID Acts³⁴ granted all medical professionals combating COVID-19 infections with additional remuneration. However, representatives of the ruling parliamentary majority declared that this change was introduced as a result of a mistake and announced amendments³⁵ to the act in this regard. According to their position, additional remuneration should apply only to those medical professionals who were compulsorily assigned to combat the epidemic.

According to media reports,³⁶ the availability of free hospital beds and respirators is constantly deteriorating. To give an example, as of 31 October 2020, in Mazovian region 1883 COVID-19 beds were occupied out of general number of 2573 COVID-19 beds.³⁷ In case of respirators the occupancy rate was even higher and amounted to 91% (161 occupied respirators out of the general number of 172 respirators).³⁸ The lack in appropriate number of hospital beds results in problems with the functioning of the emergency services, which are forced to transport patients between hospitals, searching for vacancies.³⁹ This affects the accessibility of ambulance for other types of patients, including those who are not suffering from COVID-19 infection.⁴⁰

Media reports⁴¹ indicate dozens of cases of emergency services who were forced to wait with a patient for several hours (even 15 hours) for its admission to the hospital. In some cases, the patients died without being placed in the hospital ward.⁴² The public authorities declare⁴³ that the situation will improve with the adoption of an amendment to the Act on medical services, enabling the national coordinator of emergency services to issue a decision on the placement of the patient in a specific

³³ Poland, The Council of Ministers Regulation of 14 October 2020 on the amendment to the regulation on the establishment of certain restrictions, orders and bans in connection with the state of the epidemic, Journal of Laws of 2020, item 1797.

³⁴ Poland, the Act on the amendment to the certain acts connected with counteracting crisis situations related to the occurrence of COVID-19, available: http://orka.sejm.gov.pl/proc9.nsf/ustawy/683_u.htm accessed 1 November 2020, (the Act has not been yet signed by the President of Poland).

³⁵ A. Szczepańska, gazetaprawna.pl, available: <https://serwisy.gazetaprawna.pl/zdrowie/artykuly/1494829,nie-bedzie-wyzszych-dodatkow-dla-wszystkich-medykow-walczacych-z-covid-19.html>, accessed 1 November 2020.

³⁶ RDC, available: <https://www.rdc.pl/informacje/koronawirus-brakuje-lozek-dla-pacjentow-z-covid-19-na-mazowszu-szpitala-wstrzymuja-przyjecia/>, accessed 1 November 2020.

³⁷ Masovian Voivodship Office, available: <https://www.gov.pl/web/uw-mazowiecki>, accessed 1 November 2020.

³⁸ Masovian Voivodship Office, available: <https://www.gov.pl/web/uw-mazowiecki>, accessed 1 November 2020.

³⁹ TVN24, available: <https://tvn24.pl/polska/koronawirus-w-polsce-nagrania-z-karetek-w-warszawie-brak-miejsc-w-szpitalach-4735344>, accessed 1 November 2020.

⁴⁰ TVN24, available: <https://tvn24.pl/polska/koronawirus-w-polsce-nagrania-z-karetek-w-warszawie-brak-miejsc-w-szpitalach-4735344>, accessed 1 November 2020.

⁴¹ Gazeta Wyborcza, available: <https://warszawa.wyborcza.pl/warszawa/7,54420,26437792,ratownicy-pogotowia-czekali-z-pacjentem-kilkanascie-godzin-na.html>, accessed 1 November 2020.

⁴² RMF.FM, available: <https://www.rmf24.pl/raporty/raport-koronawirus-z-chin/polska/news-karetka-krazyla-5-godzin-miedzy-szpitalami-kobieta-zmarla-na-nld,4820784>, accessed 1 November 2020.

⁴³ Poland, the justification to Act on the amendment to the certain acts connected with counteracting crisis situations related to the occurrence of COVID-19, available: <http://orka.sejm.gov.pl/Druki9ka.nsf/0/7BF6B02A4F4D40DDC125860600509725/%24File/683.pdf>, accessed 9 November 2020.

hospital. According to the new law,⁴⁴ the decision will have a binding character and will be immediately enforceable. The aforementioned amendment will give also the Head of National Health Fund (NFZ) a power to control hospital and assess the availability and organization of health care. In the event of irregularities, it may even order hospital authorities to reimburse funds to National Health Fund.

In the reporting period, public authorities decided⁴⁵ to transform some of the hospital wards into COVID wards. Some of these changes have resulted in protests⁴⁶ from healthcare professionals and patients. Staff indicated that the decision will have an influence on non-COVID patients and will worsen their access to health care services,⁴⁷ leading even to a threat to their lives. At least in one case, the protests forced the public authorities to amend their decision regarding the transformation of hospital ward destination.⁴⁸

In October 2020, Poland faced nearly 40% more deaths than in October 2019.⁴⁹ According to the media reports, the increase in the number of demises is not only the result of COVID-19 infections, but also general deterioration of individuals access to healthcare services.⁵⁰

Last but no least, there are no official data regarding waiting time for the COVID-19 testing. In recent days, after media reports indicating that patients have to queue for even several hours in the streets to have their tests done,⁵¹ the public authorities decided to support the testing procedures with military professionals.⁵² Furthermore, patients' access to testing at home is even weaker, as in some regions⁵³ patients have to wait more than a week to have their test done by emergency service.

⁴⁴ Poland, the Act on the amendment to the certain acts connected with counteracting crisis situations related to the occurrence of COVID-19, available: http://orka.sejm.gov.pl/proc9.nsf/ustawy/683_u.htm, accessed 1 November 2020, (the Act has not been yet signed by the President of Poland).

⁴⁵ Gazeta Wyborcza, available: <https://olsztyn.wyborcza.pl/olsztyn/7,48726,26448690,koronawirus-na-warmii-i-mazurach-problemy-ze-szpitalami-i-oddzialami.html>, accessed 1 November 2020.

⁴⁶ Gazeta Wyborcza, available: <https://poznan.wyborcza.pl/poznan/7,36001,26402328,szpital-mswia-tylko-dla-chorych-na-covid-19-trwaja-rozmowy.html>, accessed 1 November 2020.

⁴⁷ Gazeta Wyborcza, available: <https://poznan.wyborcza.pl/poznan/7,36001,26402328,szpital-mswia-tylko-dla-chorych-na-covid-19-trwaja-rozmowy.html>, accessed 1 November 2020.

⁴⁸ Wp.pl, available: <https://wiadomosci.wp.pl/koronawirus-w-polsce-wojewoda-wycofal-sie-z-decyzji-szpital-mswia-nie-zostanie-przekształcony-6565289218894464a>, accessed 1 November 2020.

⁴⁹ Konkret24, <https://konkret24.tvn24.pl/zdrowie,110/zniwo-pandemii-w-pazdzierniku-prawie-40-proc-wiecej-zgonow-niz-przed-rokiem,1036597.html>, accessed 9 November 2020.

⁵⁰ Konkret24, <https://konkret24.tvn24.pl/zdrowie,110/zniwo-pandemii-w-pazdzierniku-prawie-40-proc-wiecej-zgonow-niz-przed-rokiem,1036597.html>, accessed 9 November 2020.

⁵¹ Gazeta Wyborcza, available: <https://kielce.wyborcza.pl/kielce/7,47262,26419588,gigantyczne-kolejki-do-testow-na-obecnosc-koronawirusa-trzeba.html>, accessed 1 November 2020.

⁵² Polskieradio24, available <https://polskieradio24.pl/5/1222/Artykul/2608811,Terytorialsi-pomoga-w-robieniu-testow-Ponad-3-tys-zolnierzy-WOT-wesprze-walke-z-koronawirusem>, accessed 9 November 2020.

⁵³ Beskidzka24, available: <https://beskidzka24.pl/wymazobus-w-akcji-pomoc-dla-osob-obloznie-chorych/>, accessed 9 November 2020.

Currently, in Warsaw, the queues for testing occur only at certain points.⁵⁴ Patients usually have to wait at least two days to have their result.⁵⁵ In some cases, the waiting time lasts for a few days.⁵⁶ The result of the test might be accessed online, through the official patient portal.⁵⁷

Education

From 19 October, the government suspended⁵⁸ the operation of secondary schools, schools for adults, education centres and vocational training centres in the red zones. Students of these schools and educational institutions switched to remote education. Students of secondary schools, schools for adults, education centres and vocational training centres in yellow zones participated in blended format of education in the mode of approx. 50%⁵⁹. This means that at least half of the students from a given school had classes at school, and the rest remotely. Before that, the decision on the remote education was made by the school principal in cooperation with sanitary inspection and happened only in exceptional cases.

On October 24, the government decided⁶⁰ to suspend regular functioning of all schools in Poland. The only exceptions to this were made to primary schools, in which children attending 1-3 grades were allowed to have a regular education.

However, the school principal is obliged, in case of children with disabilities (who are unable to participate in remote learning) or children who do not have a possibility to participate in remote learning (due to the lack of computer or access to the Internet) to organize regular classes at school or enable the children to take part in remote learning in school premises.

Restrictions on the functioning of schools do not apply to kindergartens, schools located in youth educational centres and youth sociotherapy centres. They also do not apply to boarding schools.

⁵⁴ TVN24, available: <https://tvn24.pl/tvnwarszawa/najnowsze/warszawa-gdzie-zrobic-test-na-koronawirusa-lista-punktow-pobran-4728411>, accessed 1 November 2020.

⁵⁵ Dziennikbałtycki.pl, available: <https://dziennikbałtycki.pl/testy-na-koronawirusa-na-pomorzu-jaki-jest-czas-oczekiwania-na-wymaz-ile-czeka-sie-na-wynik-testu-na-koronawirusa/ar/c1-15271838>, accessed 9 November 2020.

⁵⁶ Gazeta Wyborcza, available: <https://lodz.wyborcza.pl/lodz/7,35136,26449317,koronawirus-samowolna-kwarantanna-i-czekanie-na-test-system.html> accessed 9 November 2020.

⁵⁷ TVN24, available: <https://tvn24.pl/tvnwarszawa/najnowsze/warszawa-gdzie-zrobic-test-na-koronawirusa-lista-punktow-pobran-4728411>, accessed 1 November 2020.

⁵⁸ Poland, Ministry of National Education Regulation of 16 October 2020 on the amendment to the regulation on the temporary limitation of the functioning of the education system units in relation to the prevention, counteraction and combating COVID-19, Journal of Laws of 2020, item 1830.

⁵⁹ Poland, Ministry of National Education Regulation of 16 October 2020 on the amendment to the regulation on the temporary limitation of the functioning of the education system units in relation to the prevention, counteraction and combating COVID-19, Journal of Laws of 2020, item 1830.

⁶⁰ Poland, [Ministry of National Education Regulation of 23 October 2020 on the amendment to the regulation on the temporary limitation of the functioning of the education system units in relation to the prevention, counteraction and combating COVID-19](#), Journal of Laws of 2020, item 1870.

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

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

In October 2020, the government decided to introduce several restrictions that influenced the **situation of older persons**. According to the governmental [regulation of 23 October 2020](#)⁶¹, older persons (older than 70 years old) can leave the apartment only in three instances when they travel to or back from work, to run daily errands or to attend religious services. Furthermore, the Regulation also limited the work of sanatoriums and physical rehabilitation facilities available for among others senior patients.

The introduced changes that may mostly affect the situation of older persons were accompanied by some of policy changes in order to mitigate the negative consequences of the restrictions. For example, the government launched a program “The corps of solidarity support for seniors” that aims at supporting older persons in daily life during the pandemic. Within the program, the government opened a hotline for seniors via which they could ask for help and assistance. The support and assistance are provided by a wide network composed of local social care offices, volunteers and civil society organizations.⁶²

Despite these efforts, there are at least two areas in which the rights of older persons may be exposed to limitations, namely access to health care system and the situation in nursing homes.

Since the beginning of the pandemic in Poland, the **access to healthcare system** became more and more difficult especially for the senior groups of patients. The National Institute of Senior Economy (*Krajowy Instytut Gospodarki Senioralnej*) latest report shows significant problems that older persons face in access to health care during the pandemic. The report presents results from a survey carried out in a representative group of 1118 older persons. According to the research results 1/3 of the respondents had to put their regular medical treatment on hold due to the pandemic related restrictions. One of the key challenges indicated in the report is the access to health care system in general. 67% of the respondents declared problems in access to basic medical services and contacted medical doctors as these kinds of services is provided many online or via phone. On the other hand, the respondents did not declare major problems in access to among others doctor’s prescriptions as they can be obtained online.

Furthermore, almost half of the respondents (48%) declared that they feel lonelier during the pandemic according to the authors of the report the pandemic only revealed the already existing

⁶¹ Poland, Governmental regulation amending the regulation on introducing certain limitations, orders and prohibitions due to the state of pandemic (Rozporządzenie Rady Ministrów z dnia 23 października 2020 z zmieniające rozporządzenie w sprawie ustanowienia określonych ograniczeń, nakazów i zakazów w związku z wystąpieniem stanu epidemii) 23 October 2020, available at: <https://dziennikustaw.gov.pl/D2020000187101.pdf>

⁶² Poland, Serwis Rzeczypospolitej Polskiej, Cała Polska w czerwonej strefie, kolejne zasady bezpieczeństwa oraz Solidarnościowy Korpus Wsparcia Seniorów, available at: <https://www.gov.pl/web/koronawirus/cala-polska-w-czerwonej-strefie-kolejne-zasady-bezpieczenstwa-oraz-solidarnosciowy-korpus-wsparcia-seniorow>

problems such older persons loneliness, their health care problems and difficulties in access to online services.⁶³

Secondly, with the raise of the number of persons infected with coronavirus in recent weeks, the **situation in the nursing homes** has begun to worsen again. Since September 2020, the Ombudsman's Office informed about four cases of nursery homes in which the patients were diagnosed with COVID-19 (nursery homes in Chumiętki⁶⁴, Łąka⁶⁵, Bełchatów⁶⁶ and Wielka Wieś⁶⁷). In each of the facilities, the management of the nursing homes introduced special sanitary restrictions that should prevent the disease from spreading. Still, some of the facilities (e.g. the nursery house in Bełchatów) informed the Ombudsman about the problems in e.g. lack of staff able to provide assistance and medical care to the patients on daily basis.

Furthermore, the development of pandemic has posed a significant risk to health and rights of **homeless persons**. In recent weeks, the civil society organizations providing aid and assistance to homeless persons alarmed about the lack of protections from COVID-19 designed to the needs of persons without a shelter. First of all, the organizations noted that homeless persons do not have an effective access to COVID-19 tests. Even though the tests should be provided to everyone (regardless whether they have social insurance or not), the tests are administrated either upon doctor's or sanitary inspection's orders. The access to the public medical services, however, is provided to those who have social insurance. Secondly, homeless persons do not have a possibility to stay in quarantine.⁶⁸ The local governments in Gdańsk and Poznań, built temporary houses dedicated for homeless persons who may be infected with coronavirus⁶⁹, yet these initiatives are carried out only at the local level.

⁶³ Poland, National Institute of Senior Economy (Krajowy Instytut Gospodarki Senioralnej), Raport - zdrowie polskich seniorów w czasie pandemii, available at: <https://kigs.org.pl/raport-zdrowie-polskich-seniorow-w-czasie-pandemii/>

⁶⁴ Ombudsman's office, Koronawirus. Zarażenia w placówce opiekuńczej dla dzieci w Piszkowicach i w DPS w Chumiętkach, available at: <https://www.rpo.gov.pl/pl/content/koronawirus-zarazenia-w-placowce-dla-dzieci-piszkowice-dps-chumietki>

⁶⁵ Ombudsman's office, Koronawirus. Sytuacja w Krajowym Ośrodku Psychiatrii Sądowej dla Nieletnich w Garwolinie oraz DPS w Łące, available at: <https://www.rpo.gov.pl/pl/content/koronawirus-sytuacja-w-osrodku-psychiatrii-sadowej-garwolin-dps-laka>

⁶⁶ Ombudsman's office, Koronawirus. Sytuacja w DPS w Bełchatowie, available at: <https://www.rpo.gov.pl/pl/content/koronawirus-sytuacja-w-dps-w-belchatowie>

⁶⁷ Ombudsman's office, Koronawirus. Zarażenia w DPS dla osób z niepełnosprawnością intelektualną, available at: <https://www.rpo.gov.pl/pl/content/koronawirus-zarazenia-w-dps-dla-osob-z-niepelnosprawnoscia-intelektualna>

⁶⁸ Nowosielska P., Bezdomni a koronawirus. "Siedzimy na bombie", Gazeta Prawna, available at: <https://www.gazetaprawna.pl/artykuly/1494692,bezdomni-koronawirus-noclegownie-testy.html>

⁶⁹ Wykluczeni.pl, Gdańsk. Pierwsze w Polsce „osiedle” kontenerowe dla bezdomnych, available at: <https://www.wykluczeni.pl/gdansk-pierwsze-w-polsce-osiedle-kontenerowe-dla-bezdomnych/>