

Coronavirus COVID-19 outbreak in the EU

Fundamental Rights Implications

Country: Belgium

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Table of Contents

1	<i>Measures taken by government/public authorities</i>	3
1.1	Measures in place on 20 March 2020	3
1.2	Measures taken to reduce the impact on businesses, workers and self-employed persons	5
1.3	An initial assessment of the fundamental rights implications of the measures taken to reduce the spread of Covid-19	7
1.3.1	Asylum and migration	7
1.3.2	Employment	8
1.3.3	Housing	8
1.3.4	Food	8
1.3.5	Social security services	9
1.3.6	Homeless	9
1.3.7	Education	9
1.3.8	Children's rights	9
1.3.9	Access to justice	10
1.3.10	Prisoners' rights	11
1.3.11	Persons with disabilities	12
2	<i>Impact of the outbreak on certain national or ethnic communities</i>	13
2.1	Reports on xenophobic speech, harassment or violent attacks	13
2.2	Incidents of alleged discrimination on the grounds of nationality	14
3	<i>Impact on privacy and spread of disinformation</i>	14

1 Measures taken by government/public authorities

On 13 March 2020, the coordination efforts to slow the spread of Covid-19 were [enacted](#) at a Federal level. In view of the stalemate over the last 15 months (since Federal elections in May 2019 regarding the formation of a government), the King nominated the current caretaker Prime Minister, Sophie Wilmès to form a government.

On 17 March 2020, the government announced more [stringent measures](#) to slow the spread of the virus Covid-19 in Belgium until 5 April 2020 (included).¹ These measures have subsequently been implemented in a [Ministerial Decree on the emergency measures for limiting the spread of coronavirus COVID-19](#). The situation in Belgium is categorised as a reinforced Phase 2. The adopted measures have been taken at a [Federal level by the National Security Council](#) composed of the Prime Minister, relevant Ministers and the President-Ministers of the Regions. The measures have been adopted in consultation with and following [expert group](#) meetings of the Risk Assessment Group and the Risk Management Group.

1.1 Measures in place on 20 March 2020

Social distancing measures

Individuals are required to stay at home and it is not permitted to leave the house unless they are going to work; making a business trip; going to an authorized store (food, pharmacy); going to a bank cash machine or post office; going to the doctor; assisting a vulnerable person.

Where these measures are not respected, law enforcement officers will [impose sanctions](#) on those who do not respect the rules regarding assembly. The legal basis for which is found in article 187 of [law of 15 May 2007 relating to civil security](#). The sanctions can amount to 8 days to 3 months in prison and/or a fine of 26-50 Euros.

Retail and horeca

Shops are closed except for grocery stores (including night shops); food stores for animals; pharmacies; newsagents, petrol stations, hairdressers (only one client at a time). The following measures have to be respected maintain a distance of 1,5 metres between persons, maximum of 1 client per 10 metres squared and maximum duration of 30 minutes in supermarkets, sales and reductions are prohibited, supermarkets can only open from 7.00 – 22.00, night shops must close at 22.00.

Cafes and restaurants are closed (all establishments must remove their terraces). Food delivery and takeaway are permitted but queues must be avoided. Sandwich shops, chip shops and snack bars remain open for takeaway only but queues must be avoided. Open air markets are prohibited except for where they are necessary to provide grocery provisions to the population.

Hotels, holiday homes and holiday parks can remain open but any access to bar, restaurants and communal spaces are prohibited. Hotels can provide room-service.

Work

Working from home is obligatory where possible regardless of the size of businesses. Where this is not possible, businesses must take measures to guarantee the implementation of social distancing rules, including the guarantee of 1,5 metres between employees, including for transport organised by the employer. If not respected, the business will be closed.

¹ Previous measures had been announced on 18 February 2020 (general measures of hygiene and social distancing measures), 10 March 2020 (schools remain open but all events, school trips etc are to be postponed; companies are advised to allow teleworking where possible, flexible working hours or leave, hold meetings via teleconferencing, adopt social distancing rules in the workplace; cancellation of all large events of more than 1000 persons), [13 March 2020](#) (closure of all bars, restaurants, schools, universities).

Education establishments

Schools remain open for pupils whose parents are working in health service or essential public service or where there is no other solution but child care provided by grandparents. Schools must reinforce hygiene measures (regular wash hand, clean school equipment, regular ventilation of rooms). Creches remain open. Universities and evening education are recommended to switch to distance learning (For education purposes, universities are now closed and applying distance learning. Campus buildings remain open where research is essential e.g. access to labs. Otherwise, researchers, administrative staff etc are working from home). Specialist education and boarding schools remain open. Police, fire and security schools remain open.

On 23 March 2020, the Francophone universities [announced](#) that the universities will close for 6 weeks and that all education activities will be conducted via distance learning until 30 June 2020. The Flemish universities [announced](#) on 20 March 2020 that all universities will close and for all education activities to be held online until 5 July 2020.

Administrative services

The provision of administration should continue, but access points are restricted. Administrative services such as (marriage etc are permitted but no large groups can congregate).

Leisure facilities and activities

All event gatherings, processions, festivals, student parties are prohibited until 5 April, regardless of location and size. All theatres, cinemas, cultural centres, museums, exhibitions, gyms, swimming pools, leisure centres are closed. Libraries are open during the week for borrowing services only. Art and music schools are closed. Recreation parks and theme parks are closed. All sport events are cancelled.

Individual exercise or walks are permitted as long as you are only with a member of the family who live in the same house or with one friend, respecting distance of 1,5 metres between each person.

Transport

Public transport continues to provide a reduced service, respecting the 1,5 metre distance between each passenger. It is only recommended to use public transport for essential trips and to avoid rush hour travel times.

Taxis can continue but must limit number of passengers and adopt hygiene measures.

Non-essential travel abroad is prohibited. In the afternoon of Friday 20 March, the borders were closed for all non-essential travel. Persons who seek to leave the country must be able to justify that it is for professional or health reasons. Belgian residents and citizens are permitted to enter the country. Any violation of this rule can lead to an imposition of fine of up to 4,000 euros.

Transport for disabled person and persons of reduced mobility can continue, using the same combination of driver and passengers and respecting hygiene and social distancing measures.

Marriages, funeral and religious services

Civil ceremonies can take place, but no religious ceremonies or marriage parties.

Funerals can be organised in small intimate gatherings.

Religious ceremonies will not take place, but religious sites remain open to individual visitors.

Hospitals

All non-urgent operations and procedures have been cancelled. Ongoing treatments e.g. chemotherapy, dialysis will continue, patients can be accompanied by one person.

Visitors are limited to parents of hospitalised children and close family of patient in a critical condition.

Medical care

Covid-19 testing is reserved for those whose clinical state requires hospitalisation and all health professionals who are suspected of infection and have a fever.

Health professionals and ambulance drivers can continue to work if they have light symptoms but must wear a mask. Where a fever is more than 37,5°C, they can no longer work and must stay at home. Essential visits to care homes are allowed to avoid complete isolation of residents.

Prisons

All prison visits are cancelled, professionals who need to access detainees can still enter.

1.2 Measures taken to reduce the impact on businesses, workers and self-employed persons

On 6 March 2020, the [Council of Ministers adopted 10 measures that are aimed at minimised the impact of the Covid-19 outbreak on businesses](#), including self-employed persons. These measures are subject to ongoing monitoring and may be amended if necessary. The measures have been grouped as follows: unemployment, tax and social security, self-employed persons and public procurement.

Unemployment

- **Temporary unemployment due to force majeure** has been extended by three months until 30 June 2020, it may also be invoked pending recognition of the status of "company in difficulty". Companies need this recognition in order to be able to trigger temporary unemployment for economic reasons for their workers. The recognition of temporary unemployment for force majeure takes place within three to four days.
- **Temporary unemployment for economic reasons.** Temporary unemployment benefits - both for economic reasons and force majeure - will be increased from 65% to 70% for a period of three months (capped at 2.755 euros per month). The aim of the measure is to limit the loss of income suffered by the workers affected.

Since the introduction of these measures the Federal Minister of Employment, Nathalie Muylle, declared that on 17 March 2020, [30,000 businesses](#) had requested temporary unemployment, with 200.000 – 300.000 workers placed in temporary unemployment.

Tax and social security payment plans

- **Employers' social security contributions** due for the first and second quarters of 2020, the Covid-19 issue will be accepted as an element allowing recourse to amicable payment deadlines.
- **VAT payment** can be split and an exemption from the usual fines will be introduced. This is on condition that the creditor demonstrates that the payment difficulties are related to Covid-19.
- **Payments relating to the withholding tax** on earned income can be distributed and an exemption from the usual fines will be introduced, under the same conditions.
- **Personal/corporate income tax** where it can be demonstrated that the payers has payment difficulties related to Covid-19, it is possible to request a deferral of payments for personal and corporate income tax.

Self-employed persons

- **Reduction of advance payments for self-employed persons** can be applied for if a self-employed person believes, during the year, that his or her income is lower than the amount used as the basis for the assessment.
- **Deferral of one year without interest on arrears or exemption from payment of social security contributions for self-employed persons** for the first two quarters of the year 2020 where it can be demonstrated that the difficulties are related to Covid-19.
- **Obtaining a replacement income in favour of self-employed persons (bridging right)** on the grounds of forced cessation of activity due to difficulties related to Covid-19. After more

than one week the self-employed person is entitled to financial assistance is 1,266.37 euros per month in case of no family expenses and 1,582.46 euros per month in case of family expenses. On 19 March 2020, the House of Representatives voted on the [bill](#) amending the law of 22 December 2016 introducing a bridging right in favour of self-employed workers. This right allows self-employed persons who encounter difficulties (in particular as a result of the coronavirus) to appeal to the bridging right for forced interruption, provided that they meet a series of conditions, including a minimum period of at least 7 consecutive calendar days. Self-employed persons who cannot claim the monthly amount will be entitled, provided they cannot claim a replacement income, to the following financial benefit: 100 % if the interruption of the professional activity lasts at least 28 consecutive calendar days from the date of the start of the interruption (i.e. EUR 1291,68 or EUR 1616,12); 75 % if the interruption lasts at least 21 consecutive calendar days (i.e. EUR 968,76 or EUR 1213,59); 50% if the interruption lasts at least 14 consecutive calendar days (i.e. EUR 645.85 or EUR 809.06); 25% if the interruption lasts at least 7 consecutive calendar days (i.e. 322.92 euros or 403.53 euros).

Public Procurement

- **Flexibility in the execution of federal public contracts** where there is a delay or failure to perform due to Covid-19, the Federal Government will not apply penalties or sanctions against contractors, firms and self-employed persons.

Additional measures have been taken by the [regional governments](#) to reinforce those already taken at a Federal level. In [Wallonia](#):

- Regional tax freezes directly related to trade in proportion to the number of days of closure.
- The granting of 100 million euros to compensate shops and catering establishments that have to close.
- Bank guarantees by Sowaifin for companies in difficulty
- Businesses and self-employed persons will be entitled to 5,000 euros where they are forced to close entirely and 2,500 euros where they have had to adapt their opening hours

In Brussels, the government decided:

- The payment of a single premium for all establishments affected by the emergency measures and forced to close.
- The renunciation of the City Tax by the Brussels Region for the first half of the year 2020.
- The creation of a delegated mission at Finance&Invest.brussels which includes, among other things: the possibility of a reduced rate loan to key suppliers in the Horeca sector enabling them to offer a payment period to establishments in the Horeca sector and the possibility of a reduced rate loan for Horeca establishments employing more than 50 people.
- A moratorium on capital repayment of loans granted by Finance&invest.brussels to impacted companies in the affected sectors.
- Accelerated or even early processing, commitment and liquidation of aid for economic expansion in the Horeca, tourism, events and culture sectors.
- Strengthening support for firms in difficulty by increasing the funding for the Centre for Firms in Difficulty (CED).

In Flanders, the government provides for a [premium](#) called a Nuisance Bonus for entrepreneurs and self-employed persons who are forced to close down their business because of the Covid-19 related measures. The Bonus can be claimed up to one month after the first day of closure and amounts to 4,000 euros for the next 21 days and 160 euros per day for every additional day.

Non-governmental measures include, according to the newspaper [l'Echo](#) on 10 March 2020, an agreement between the four largest Belgian banks (BNP Paribas Fortis, ING, Belfius et CBC) to

suspend and delay the repayment of credit, both capital and interest, for businesses who have been impacted by the Covid-19.

1.3 An initial assessment of the fundamental rights implications of the measures taken to reduce the spread of Covid-19

The impact of the Covid-19 outbreak and the measures on fundamental rights have been raised by a number of organisations, such as the impact on those living in poverty, asylum seekers and prisoners.

On 20 March 2020, Unia, the interfederal centre for equal opportunities, published a [press release](#) that sought to bring attention to the fundamental rights impact of the protection measures against Covid-19. Whilst welcoming the measures taken by the government, Unia called for awareness of the impact of the measures on the most vulnerable in society and in particular the potential for increasing existing inequalities. Of particular concern, Unia outlined three examples of possible negative consequences of the measures adopted on 18 March 2020:

- 1) Parents of children with disabilities who reside in an institution have to make a choice between bringing their child home to look after them themselves or to leave them confined in the institution for weeks without any means of communication (see section 1.3.8)
- 2) Persons who require international protection are unable to request asylum, in the meantime, they are deprived of the right to accommodation and have no alternative options for finding shelter (see section 1.3.1)
- 3) Persons living in poverty or in a precarious situation do not always have access to computers or tablets, to information diffused electronically or by social media networks. Children and young people in such situation have a number of difficulties in relation to distance learning, and the current measures reinforce the existing inequalities in terms of access to information and education (see section 1.3.7).

For instance, a group of poverty organisations (Network against poverty, Community development, Welfare Links and Welfare and ATD Fourth World - *Netwerk tegen Armoede, Samenlevingsopbouw, Welzijnschakels, Welzijnszorg en ATD Vierde Wereld*) called for a [number of recommendations](#) to local authorities, services providers and schools in order to minimise the impact of those living in poverty (these recommendations have been incorporated to the below assessment).

1.3.1 Asylum and migration

To contain the spread of COVID-19, Belgium took numerous restraining measures that negatively affect migrants.

As of 17 March 2020, [the arrival centre for asylum seekers is closed](#) and, therefore, new arrivals cannot request protection or be assigned reception places. The decision to unilaterally suspend respect for international obligations has been [criticised](#) by the Avocats.be Order of the Belgian Francophone and Germanophone Bars (*Ordre des barreaux francophones et germanophone de Belgique*) in a press release on 18 March 2020. Whilst acknowledging the severity of the health emergency, Avocats.be call on the Office to adapt their service provision whilst ensuring compliance with the measures in place and their legal obligations. Furthermore, [NGOs fear](#) that those who are not able to register (including children) will be left in the streets.

Furthermore, all interviews of asylum seekers for their status determination [have been cancelled](#). Avocats.be also raise concerns about the cancellation of hearings, until further notice by the General Commission for Refugees and Stateless Persons (*Commissariat Général aux Réfugiés et aux Apatrides*) but the continuation of hearings by video conferences in closed centres. Avocats.be welcomes the former, but calls for all videoconferences to be cancelled. In light of the difficulties in arranging appointments with their clients and interpreter, Avocats.be requests that the CGRA defers any decisions of inadmissibility, or denial of refugee status throughout the period of the health crisis. Similarly, in the event of notification of such decisions, AVOCATS.BE requests that the time limits for appeal be

exceptionally extended by means of a law of exception, to allow the minimum respect for the rights of defence of asylum seekers.

NGO members of the [Transit Group](#) network are unable to visit detainees in immigration detention centres. The Jesuit Refugee Service [reported](#) that they can only provide assistance by phone and that detainees expressed concern about the uncertainty of their situation.

On 19 March 2020, the police [evacuated](#) a group of migrants who were camped in Maximilien Parc in Brussels, in order to implement the social distancing rules that have been introduced since 17 March 2020. The closure of the arrival centre for asylum seekers means that many migrants have no alternative but to stay on the streets, therefore, any dispersal does not offer any solution. The spokesperson for Mayor of Brussels Philippe Close, stated that talks were ongoing between the NGO Citizens Platform for Refugee Support in Brussels ([Plateforme Citoyenne de Soutien aux Réfugiés](#)) and the Cabinet of the Minister of the Government of the Brussels-Capital Region Alain Maron to find a solution.

1.3.2 Employment

Despite the restrictions that have been implemented regarding the workplace, a [communal statement](#) made by a group of trade unions, employers and the Federation of Belgian Enterprises (FEB) (known as the Group of 10 – [le Groupe des 10](#)) strongly urged that uninfected workers should be able to continue to work. This is particularly important for those who are working in precarious sectors and have temporary or part-time jobs. Those groups who work in such sectors are disproportionately represented include persons with a [migration background](#), persons in unskilled jobs, persons with disabilities and persons over the age of 55.

The domestic cleaning sector has been adversely [affected](#) by the Covid-19, with a large number of clients cancelling and domestic cleaners going on sick leave. The sector is composed of 140,000 workers, with a large number of women, working on a part-time basis. In order to minimise the impact of the outbreak on the employees, Federgon, the Federation that represents the domestic cleaning sector (implemented in Belgium via government subsidised service vouchers) has [called for support](#) from regional and federal authorities to ensure that the impact on the sector is mitigated. In its support package of 17 March 2020, the Wallonian Government announced [23 million euros regional support](#) for the sector. In particular, the Government noted that more than one third of the 100.000 service users are over the age of 65 years.

The measures announced initially by the Federal Government regarding the closure of businesses on 17 March 2020 excluded hairdressers. Instead, the measures required that these businesses respected the general measures and imposed a rule of one-in-one-out in hairdressing salon. Since this announcement, the inability for hairdressers to benefit from the abovementioned measures has been criticised with many stating that it is impossible to respect the 1,5 metre social distancing rule. On 18 March 2020, the Federal Minister for Self-employed and small and medium sized business enterprises announced in a press release reported in [media](#), that whilst the decision to leave hairdressers the right to open their business remains (see [Ministerial Decree](#) of 18 March 2020), the decision is not obligatory. Therefore, should hairdressers wish to close their business, they can do so with a view to claiming financial support of 1291,64 euros and maintaining their entitlement to sick pay and disability insurance.

1.3.3 Housing

The economic impact of the Covid-19 requires, according to the [Network Against Poverty et al](#), additional measures to be taken such as temporary postponement of any evictions, disconnection of utilities or seizures as these can lead to unsafe and unsanitary conditions.

1.3.4 Food

The [Network against Poverty et al](#) recommends that debt counsellors and debt intermediaries ensure that there are sufficient living resources to purchase food as it will be less likely for individual to use

informal resources and systems of emergency aid and will thus be solely reliance on a minimal living allowance.

1.3.5 Social security services

The impact of the outbreak on the delivery of crucial services such as the payment of social security benefits can have a significant impact on those who are at risk of loss of income and higher utility bills, as highlighted in the recommendations of the [Network against Poverty et al.](#)

NGO Orbit Vzw reported that the access to public social action centres (*Openbaar centrum voor maatschappelijk welzijn / centre public d'action sociale*) has been restricted due to the Covid-19 situation. The impact has been a delay in decisions regarding access to living wage and other benefits such as housing, food, health care etc. Orbit Vzw stated that given the over-representation of people with a migration background in the poverty figures mentioned earlier, they will suffer more than others.²

1.3.6 Homeless

When it comes to those without a permanent residence, the request for persons to stay at home is not an option for those who are homeless, as outlined by the [FEANTSA](#), who reinforces that during the Covid-19 outbreak, people experiencing homelessness are a medically high-risk population. The temporary and limited closure of homeless shelters only compels the options that those who find themselves on the streets. Furthermore, the withdrawal of support and assistance such as food kitchens has been identified by the [Network against Poverty](#) as a key concern, who recommends that additional funds should be dedicated to continued food delivery. To try and mitigate the impact of these measures on the homeless, on 17 March [the Belgian Red Cross opened a special sector](#) in its homeless centre at Trèves Street to house those who present symptoms of the disease. While this special sector can only host 15 people, similar initiatives are being taken by other centres.

1.3.7 Education

The provision of childcare in school offers additional opportunities such as tutoring, remediation in small groups. The closure of schools risks increasing the education gaps for those who are vulnerable and experience learning difficulties.

Similarly, some children may experience a lack of access to digital equipment, digital illiteracy and restricted internet connection. In order to minimise the impact of such restriction, the Network Against Poverty recommends that any materials should be provided in print and parents should be given clear instructions on how to structure the day of children.

1.3.8 Children's rights

In addition to the impact of school closures (section 1.3.7) and the discontinuation of asylum requests (Section 1.3.1), the measures taken have a number of implications on the rights of the child.

In light of the Covid-19 outbreak, measures for children who are residents of specialist residential care centres have been announced (in [Flanders](#) and in [Wallonia](#)). The residential centres have announced the following two measures:

- Parents are encouraged to take their child home for an indefinite period of time.
- If not, the child stays at the institution and is not allowed to return home on weekends.

The impact of such measures on children with disabilities and family members is that they often do not have the specialist equipment or knowledge to provide care and support at home for an extended period. Usually, children stay in the centre during the week and return home at weekends. Where families decide that their child should stay in the institution, visits from parents are not permitted. The only exception is for palliative cases.

² Orbit vzw is an NGO whose work focuses on diversity and migration in Flanders and Brussels. Information received in writing from Orbit Vzw, 17 March 2020.

As [judicial hearings are postponed](#), children in families going through a process of divorce, with parents that share custody or whose child pension is currently being determined may face difficulties due to the anxiety and uncertainty caused by the current halt on all proceedings. Furthermore, the access to courts may also be problematic where it comes to children at risk of harm and in need of urgent children protection since an [adapted service provision](#) has been implemented.

1.3.9 Access to justice

Members of the legal profession have been included in the list of essential services that are to continue. The list can be found in the [Annex](#) to the Ministerial Decree.

On 17 March 2020, the College of Courts and Tribunals has taken a [number of measures](#) regarding service provision in light of the government measures announced. The Courts will remain accessible in order to ensure continued minimum service provision, whilst adopting social distancing rules and posting guidelines to limit access points of entry to court buildings. However, everyone who should not necessarily be present at court will be turned away, for instance, members of the public are no longer allowed in the criminal courts.

New [measures](#) have been introduced to limit social contact. As many procedures as possible are now conducted in writing: e.g. the police court (road traffic offences), single court local judges (*vrederechter* / *judge de paix*), however, for other courts such as the labour or commercial court and criminal courts oral representation remains the default. Lawyers who cannot attend a hearing for reasons of Covid-19 are authorised to request a deferral of the case.

Nevertheless, a number of courts have [suspended hearings](#):

- Council of State has suspended hearings of the administrative division until 19 April 2020.
- Regular hearings of the Aliens litigation council are suspended between 18-31 March 2020. Scheduled hearings will be postponed to a later date, parties will be informed of these changes. However, annulment proceedings, hearings under the accelerated procedure in full jurisdiction and scheduled hearings of the Combined Chambers of the ECC will take place during this period.

All procedural documents may exceptionally be sent by e-mail or e-deposit (an online platform that previously was only used to submit legal briefs) since the staff of registries will work as much as possible from home.

Of most importance for criminal procedure, the following decisions have been made:

- only urgent cases, namely with detainees, are considered;
- the default is now representation by a lawyer: a detainee will only be transported to the court if he/she insists to be present;
- all non-essential criminal cases and interrogations have been suspended;
- all non-urgent requests to review files will be suspended, e.g. request to review the file in an ongoing Investigation or case. Access is only permitted for those cases where there is a detainee who will appear before a (pre-trial) court.

Overall, the impact of these measures on due process and defence rights are that the suspension of all non-urgent cases and investigations means that the overall length of procedures and investigations will be further extended. Similarly, the suspension of all non-urgent requests of access to files will impact on equality of arms as the time and facilities to prepare the file may not be adequate for instance there is no secure manner for online access to the file. Despite the introduction of measures for contact to be

in compliance with social distancing rules, there are in fact no adequate facilities to ensure social distancing contacts with clients or video interrogations.³

The implementation of these emergency measures demonstrates the extent to which the justice system was ill-prepared for such an emergency. According to a Flemish Criminal Defense Lawyer, the following aspects demonstrate the extent to which the implementation of such emergency measures is inadequate:

- Written communication with courts and registries is the main means of communication e.g. via fax which means that the switch to electronic communication is a significant change in procedure. Magistrates and prosecutors working at home still have to carry heavy files home as there is no adequate electronic system.
- Communication and updates from Bar Associations and the new adapted rules has been incoherent and confusing. E.g. 12 updates have been sent by the Antwerp Bar association in a matter of days.
- Communication has not been universally applicable. E.g. a communication on the representation as default rule before the courts mentioned that it does not apply for the courts of first instance of East and West-Flanders with no explanation as to why the rule should not apply in those regions.⁴

1.3.10 Prisoners' rights

Social distancing in prisons

A spokesperson for the CSC Public Service trade union has [raised concerns](#) about the lack of means to conduct their work in accordance with the government measures. In particular, the spokesperson raised concern about the lack of disinfectant products such as masks, gloves and bleach and the ability to respect social distancing rules when prisoners are out of their cells. The prisoners are currently taken 10 by 10 into a 15 metre squared airlock to access to courtyard where they will join hundreds of prisoners. The spokesperson was not only concerned about the non-compliance with government measures but also the risk of rioting.

Legal representatives of detainees are still permitted to enter prisons (as long as social distancing rules are respected) and they have also been given permission to use telephone contact. However, the introduction of this measures brings into question the confidentiality of correspondence between clients and lawyers as the meetings rooms in prisons are cramped and do not provide for the possibility to respect social distancing. Furthermore, where telephone contact is used, there is no guarantee that the phone lines will be secure and protected. Only a few prisons have telephones in a cell or in a sufficiently discrete location.⁵

The right to health

The [League of Human Rights](#), on 18 March 2020, called for the situation in prisons to be taken into account and for a number of measures to be taken to minimise the impact of Covid-19 on the prison population that is already experiencing overcrowding and a lower rate of health in terms of infectious diseases, mental health and addiction issues. In this regards, the following measures are recommended: the release of detainees in pre-trial detention who do not pose a danger to others; the conditional release of all prisoners who are old, sick or in any way fragile; and for prisoners who remained detained a strengthening of health monitoring with effective means of care in complete safety, facilitation of telephone contacts with the outside: free access to the telephone, possibility for outside interveners - lawyers and others - to contact detainees by telephone without having to go to prison, etc.

³ Written correspondence from Criminal Defense Lawyer, 19 March 2020.

⁴ Written correspondence from Criminal Defense Lawyer, 19 March 2020.

⁵ Written correspondence from Criminal Defense Lawyer, 19 March 2020.

A defense lawyer noted that healthy and human dignity in prisons is at risk, in a system where prison conditions have already been condemned, due to the cancellation of all visits and the restriction of time spent out of their cells. Similarly, prison staff are calling in sick as there are fears of an outbreak of the pandemic in prisons. In particular, there is no emergency plan should there be an outbreak in the prison population.⁶

1.3.11 Persons with disabilities⁷

On 13 March 2020, the National Superior Council of Disabled Persons and the Belgium Disability Forum made a [statement](#), outlining concerns regarding the impact of the measures against Covid-19 on the right to information of persons with disability and their daily life.

Lack of information in an accessible format: The publication of measures and updates on Covid-19 either on Federal website or in televised communications were not accessible. There was no provision for these communications to be made with sign language video, easy to read or guarantee of web accessibility (label or statement).

Access to health and support services: With a view to limiting the impact on health services, many medical consultations are being carried through telephone, skype and other computer channels. However, there is no information to what extent accessibility for people with disabilities is ensured.

Persons with disabilities living in institutions:

- Institutions have taken a number of measures to limit the spread of Covid-19, in particular external visits are not permitted: the issues related to the elimination of visits (families, volunteers, etc.) must be integrated into the staff costs (meals, accompaniment, etc.), not to mention the well-being of disabled persons.
- There is a lack of clarification as to the situation of non-permanent residents who return to their families on a regular basis.
- The situation must be considered at all levels as an absolutely emergency situation: no penalties should be imposed to persons with disabilities with regard to their care (setting of aid and support rates).

For people living alone and dependent – or not – on home care:

- Care must be taken to maintain and, if necessary, strengthen the support measures for these people, who will be left alone to fend for themselves.
- Certain life situations will require increased support: it is absolutely essential that ALL the professional partners coordinate to ensure that these people are taken care of in the coming weeks, at least in terms of monitoring their health.

Access to public transport: On 20 March 2020, the Belgian rail operator, SNCB, announced that it would no longer assist persons with disabilities. The National Superior Council of Persons with Disabilities has [called on](#) SNCB to ensure that any measures taken are well communicated and that there is the possibility to provide assistance in urgent situations.

⁶ Written correspondence from Criminal Defense Lawyer, 19 March 2020.

⁷ Overview of the contents of a communication from National Superior Council of Persons with Disabilities and Belgian Disability Forum. [Note to FRA: The information was sourced from European Disability Forum that provides an overview of measures in Member States, so may be of interest to the FRA when compiling the report]

2 Impact of the outbreak on certain national or ethnic communities

2.1 Reports on xenophobic speech, harassment or violent attacks

Following the Covid-19 outbreak, the media [reported](#) negative reactions against persons of Chinese origin, such as discriminatory remarks and angry looks. They also reported children being bullied at school. Through the Instagram channel of a public news channel, young persons of Asian origin also reported incidents of xenophobic speech and acts of harassment. A news article on these reports describes how more and more Flemish youth of Asian origin experience racist or insulting remarks after the Covid-19 outbreak. For example, a 15-year old woman of Chinese origin [reported](#) being barked at on the street. More so, a [Belgian school](#) posted a photo of students dressed in Chinese traditional costumes and conical hats on their Facebook and Instagram account. One of the students in the photo held a sign that said ‘Corona time’. The photo had been taken for the students’ celebration of the end of their secondary education and has since been removed from the school’s social media.

In Brussels, a woman of Asian origin [reported](#) an attack against her by five young men on a bus. The men threatened her with violence, spat at her and tried to take her mobile phone. She subsequently filed a police report for discrimination, threats of physical violence and insults. In addition, a man of Asian origin was physically attacked in Brussels, by an individual who accused him of being at the source of the spread of the Covid-19 in Belgium. The attacker was arrested and then released after questioning by the investigating magistrate, the public prosecutor's office [said](#).

Between 1 February and 17 March 2020, Unia, the interfederal centre for equal opportunities, received 53 complaints of alleged discrimination, hate speech, hate crime directly connected to the Covid 19 outbreak: 35 reports of discrimination, 6 reports of hate speech or hate crime, and 12 reports of incidents where the nature of the situation is unclear or has yet to be clarified.

15 complaints were clearly based on so-called ‘racial criteria’ (nationality, skin color, descent, national or ethnic origin). For example, a woman of Chinese origin reports young persons on the street yelling ‘Coronavirus’ at her and her daughter. Another woman of Chinese origin reports her son being bullied at tennis camp. One woman of Asian origin even reports her boss telling her that if he ‘had known about the Coronavirus, he never would have hired her.’ A man also reports neighbours complaining about his wife, who is of Chinese origin, and how they are worried about her spreading the Covid-19 in their neighbourhood.⁸

Five complaints regard discrimination on grounds of religious or philosophical beliefs, one complaint regards discrimination on the basis of health, and there were 32 complaints with grounds that were unclear or have yet to be clarified. For instance, some general remarks online could be discriminatory towards different groups on different grounds; others could regard situations or grounds of discrimination Unia is not competent for.

Orbit vzw received information on an incident concerning a young person of Asian origin at a birthday party who was called out for being a ‘Coronavirus-carrier’. This turned into a physical altercation. The NGO also reported that due to existing negative effects of structural racism embedded in many areas of society the measures in response to the Covid-19 outbreak would impact persons with a migration background more than others.⁹

⁸ Information received in writing from Unia, 17 March 2020.

⁹ Information received in writing from Orbit Vzw, 17 March 2020.

2.2 Incidents of alleged discrimination on the grounds of nationality

Unia received a report of a hotel refusing a booking for a Chinese customer.¹⁰

Media [reported](#) that in Bruges, the manager of a Chinese restaurant refuses large groups of tourists of Asian origin with the aim of banning Chinese customers out of fear for the Covid-19. Persons of Asian origin living in Belgium, on the other hand, remain welcome. When asked how he is able to make the distinction, the manager states that he asks customers whether or not they speak Dutch.

3 Impact on privacy and spread of disinformation

To counter the [spread of disinformation](#), Belgium's Federal Public Service (FPS) Health, Food Chain Safety and Environment created a [website](#), as well as Facebook, Twitter and YouTube profiles dedicated exclusively to broadcast official information about the Covid-19 situation in Belgium. The FPS reports daily on the number of cases identified in the country as well as publishes information about the virus for the population in general. Restrictions imposed are also published and explained through these official channels.

Thus far, the reporting made by the media and public authorities on the subject of Covid-19 does not seem to have infringed the privacy of those concerned, as only aggregated data is published. When announcing the number of new cases, only the number of cases per region is disclosed, while for the cases of death, the age and health facility where the deceased were being cared for are also commonly disclosed. For the deceased, in some cases, the gender of the concerned person is announced, but no further information. On March 15, [graphics showing the age group](#) of those affected were also published.

On 13 March 2020, the Belgium Data Protection Authority (*Autorité de protection des données/ Gegevensbeschermingsautoriteit*) [published instructions](#) for employers on data processing related to the Covid-19 outbreak, emphasising that all processing of personal data must comply with the GDPR and other applicable legislation.

On 20 March 2020, the Ministers of Health and Digital Agenda announced the establishment of a "Data Against Corona Taskforce" to analyse the spread of the coronavirus using telecom and epidemiological data. On the basis of this data, they want to examine how the rising curve of infections can be flattened and the infection curve shortened in order to avoid capacity problems in hospitals. The establishment of the taskforce was subject to a Data Privacy Impact Assessment, which was carried out by the Belgian DPA and who issued a positive opinion that is subject to a number of conditions that will be strictly respected. The taskforce is led by the Ministers of Health and Digital Agenda and Privacy and consists of spatial epidemiologists, "data privacy" experts and "data science" experts. Experts from the telecom sector and digital scale-ups are also part of the task force. An ethical committee supervises all activities. The taskforce will begin to develop and to test specific applications, such as ways to map the location and spread of the disease, applications that measure the impact of measures already taken, targeted communication via Be-alert, or strategies and solutions for the targeted dissemination of information at high-risk locations. The applications have been selected on the basis of their usefulness for public health and their respect for the privacy.¹¹

¹⁰ Information received in writing from Unia, 17 March 2020.

¹¹ Information received in writing from SPF Justice, 17 & 23 March 2020. See also the [media](#) coverage and here: [media](#)