

## Case report Covid 19 in Belgium

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### 1. A short description of the major legislative framework concerning communicable diseases

The legislation concerning communicable diseases is partly the competence of the central (federal) state, but the prevention and the detection of communicable diseases are the competence of the federated authorities (communities). The legislation of the federated communities was updated to organize the contact tracing (see further under 5).

### 2. Are there any guidelines concerning the treatment of patients suffering from coronavirus, please also include any guidelines concerning priority of patients due to scarcity of resources. Guidelines applicable outside the hospitals (e.g. in long-term care homes, prisons, asylum centers) are also of interest.

There are no legally binding guidelines concerning the treatment of patients suffering from the coronavirus.

In March, Sciensano (the federal advisory institution on health policy) published a document called “Interim clinical guidance for adults with suspected or confirmed COVID-19 in Belgium”. This document was first developed by a small task force on the basis of therapeutic protocols elaborated in the two reference institutions (UZ Antwerpen and Hôpital St Pierre Brussels) and then revised in fast track by a larger group of physicians and scientists from different specialties/disciplines including experts from Sciensano and the Federal Agency for Medicines and Health Products (FAMHP). It is a “living guideline” which will be regularly updated by the scientific committee each time new relevant scientific data emerges.

See the complete text with a last update on June 20th:

[https://covid-19.sciensano.be/sites/default/files/Covid19/COVID-19\\_InterimGuidelines\\_Treatment\\_ENG.pdf?utm\\_source=Measuremail&utm\\_medium=email&utm\\_campaign=COVID19\\_EN](https://covid-19.sciensano.be/sites/default/files/Covid19/COVID-19_InterimGuidelines_Treatment_ENG.pdf?utm_source=Measuremail&utm_medium=email&utm_campaign=COVID19_EN).

Concerning the priority of treatment and ethical dilemmas in the treatment of Covid-patients several guidelines were issued by scientific organizations, in some cases with the approval of ethical committees. The most important are:

- Ethical principles and guidance with regard to ethical decisions in pre-hospital and emergency medicine in Belgium during the COVID-19 pandemic. A joint statement of the Belgian Society of Emergency and Disaster Medicine and the Belgian Resuscitation Council (22 March 2020). (<https://www.besedim.be/news/ethical-decision-making-covid-19/>)
- Ethical principles concerning proportionality of critical care during the 2020 COVID-19 pandemic in Belgium: advice by the Belgian Society of Intensive care medicine ([https://www.zorgneticuro.be/sites/default/files/general/COVID-19-ethical\\_final\\_c.cleaned.pdf](https://www.zorgneticuro.be/sites/default/files/general/COVID-19-ethical_final_c.cleaned.pdf));
- Ethische aspecten van het maken van keuzes in de COVID-19 crisis. Ethische commissie-zorg UZ Leuven (<https://www.zorgneticuro.be/sites/default/files/general/corona%20covid19%20intensieve%20bedden%20ethische%20principes%2017%20maart%202020.pdf>)
- Ethical care for persons affected by the corona-virus living in long-term-care homes. This guideline proposed criteria for the decision to transfer these patients to the hospital or give them the necessary

care (sometimes limited to palliative care) in the nursing home

(<https://www.zorgneticuro.be/sites/default/files/general/200319%20Beslissing%20opname%20bij%20mogelijk%20COVIDpos%20WZC%20bewoner.pdf>).

### **3. Have certain medical services been suspended during the outbreak (e.g. non urgent health care)?**

From March 14th all hospitals (general and university, psychiatric and rehabilitation settings) were required to cancel all non-urgent consultations, investigations and elective interventions (with special focus on those potentially impacting intensive care capacities). Urgent consultations, investigations and interventions could be maintained as well as necessary treatments (chemotherapy, dialysis, etc.) and rehabilitation. After a few weeks, it was observed that other patients (those not affected by COVID) were no longer presenting to the emergency room (for heart attacks, strokes, etc.). Several calls were made through the media to reassure people and confirm that all medical emergencies were being taken care of safely. It remains to be seen whether there will be excess mortality due to other causes of death (see Transition measures).

Since May 4th the restrictions have been lifted, but all hospitals have to keep a capacity for Covid-patients or make arrangements with the other hospitals within the same network.

### **4. Have new regulations been introduced within the field of health law due to the coronavirus outbreak, particularly: what is the main content of these laws:**

The parliament gave exceptional and temporary powers to the government to take measures to combat the crisis and to change legislation.

The government has used this exceptional power to take exceptional measures to guarantee the provision of the required care during this period of crisis. These measures are aimed at increasing the number of health care professionals who can help in the management of this health crisis and supporting doctors and nurses in caring for patients during the pandemic. A first measure concerned the temporary authorisation of performing nursing activities by health care professionals other than those already authorised to do so in normal times. This authorisation would nevertheless be restricted to activities that are necessary to cope with the consequences of COVID19. A second measure concerned the requisition of all health care professionals licensed to practice under three conditions: (i) when a facility in which health care is provided (such as nursing homes, homes for older people, hospitals or individual practices) is faced with a shortage of health care professionals that no longer allows it to function properly; (ii) this shortage can no longer be addressed by increasing capacity in accordance with crisis plans or on a voluntary basis; and (iii) requisitioned health care professionals will be assigned exclusively to managing the consequences of the coronavirus.

After strong reactions of the trade unions these two measures were withdrawn.

### **Restrictions concerning movement in public spaces and Restrictions concerning “social distancing”.**

Mandatory measures were issued by both the federal and federated entities as of March 13th

- Closure of all schools (with the exception of day care for children of ‘essential workers’ and for those who can only be cared for by their grandparents). The crèches remain open, with priority for the children of essential workers.
- Closure of colleges and universities with distance learning courses whenever possible

- In nursing homes, homes for older people and residential settings for people with a handicap, all visits to residents were prohibited, except in specific situations, i.e. palliative care or death (starting from March 10th according to the federated entities). Also, day care centres had to be closed. These measures were slightly softened on April 15th, by allowing a relative (always the same person and asymptomatic for the last 14 days) to visit older/disabled persons in residential settings under very strict conditions.
- Cancellation of all recreational activities (sports, cultural, etc.) and religious ceremonies (except funerals for immediate family). Summer festivals were cancelled until August 31st.
- Closing of cafés, restaurants, clubs, etc. Take-away sales and home delivery are still allowed.
- Closure of non-essential shops for the weekend (followed by a total closure from 18/03)
- Some shops can remain open with an obligation to respect the rules of social distancing (of 1.5 metres): food shops, pharmacies, bookshops, gas/fuel stations; with limitation on the number of customers in large stores (1 customer per 10 square metres). On April 15th this was enlarged to include hobby and garden shops and waste disposal sites (with the same rules).
- Mandatory teleworking for all non-essential businesses; if not possible, mandatory social distancing rules. If this is not possible, companies must close.
- Maintenance of public transport but with the obligation to ensure social distancing.
- Outdoor physical activities remain permitted, alone, with cohabiting family members or with one friend (at social distance). Otherwise, it is prohibited to be in public spaces, except in cases of necessity and for urgent reasons such as going to the doctor or pharmacy, food shopping, providing assistance and care to older people and vulnerable people, or for business trips, including commuting to and from work.

On April 24th the National Security Council decided that the physical distancing measures would be progressively lifted from May 4th, and follow an evolving schedule.

From May 4th it is strongly recommended to wear protection to cover the mouth and nose in public spaces and when a physical distance cannot be guaranteed. Wearing a mask on public transport is compulsory from May 4th, from the moment a passenger over the age of 12 enters a station or arrives at a stopover point. In workplaces, wearing a mask is compulsory when maintaining a physical distance is not possible. It is also foreseen that initiatives would be implemented so that every citizen can receive at least one fabric mask and two filters to be incorporated into masks already acquired or made up.

From May 10th (Mothers' day in Belgium) families are allowed to receive 4 people at home but these 4 people should always be the same and they must only enter one household. The aim is to keep a minimum number of silos and to ensure the greatest possible reciprocity. This measure was enlarged to 10 different people per week on June 8th.

Schools (e.g. primary, higher education, etc.) - The return to school started gradually from May 18th with very strict distancing measures. Each federated entity worked out how this decision should be put in practice, in consultation with the sector. Consequently, the return to school was variable and most of the time partial. Kindergarten classes were not allowed to restart until June 2nd. Primary schools are allowed to restart fully from June 8th. School attendance is nevertheless not mandatory.

Workers (e.g. essential workers, childcare workers, etc.) - No change for essential workers. For other workers, see below.

Businesses (SMEs, restaurants, etc.) - For B2B enterprises and industry, teleworking will be maintained whenever possible (no end date is foreseen). A general guideline will serve as a basis for sectoral or company-level agreements to be concluded for those where social distancing is not possible.

Reopening of shops on May 11th (whatever the size and the sector), but under strict conditions for the organisation of work, reception of customers and limitations on access to avoid crowd effects. These conditions have been defined in consultation with the sectors and the social partners. Conditions include, one client per 10 square metres, no more than 30 minutes in the shop, etc. Measures are also taken to manage queues on the streets.

Professions involving physical contact (such as hairdressers) could resume their activities from May 18th with very strict distancing measures and disinfection between each client.

Restaurants, cafés and bars are allowed to reopen from June 8th under strict conditions (1.5 m between tables, 10 people maximum per table, waiters wearing a mask, closure at 1.00am, etc).

Travel (local, cross-border, etc.) People were not allowed to organise day trips to other parts of the country but from May 18th they were allowed to go to a secondary residence in Belgium. Trips within Belgium are allowed from June 8th and borders reopen from June 15th.

Gatherings (events, informal gatherings, religious services, etc.) - The possibility of allowing private meetings at home has been opened to 4 persons from May 10th. From May 18th up to 30 people were allowed to attend wedding and funeral ceremonies, but the parties thereafter were still forbidden. From June 8th, religious celebrations were allowed with a maximum of 100 people (200 from July 1st).

Museums reopened from May 18th with online ticketing, quotas per hour and predefined circuits for visitors. Cinemas, theatres and concert halls remain closed until July 1st. Summer festivals (music, theatre) are all cancelled until August 31st.

Sports activities - From May 4th people are allowed to practice outdoors and participate in non-contact sports activities (contact activities allowed from July 1st). However, if these activities require infrastructure, access to changing rooms and communal showers as well as to cafeterias is still prohibited. Team sports are allowed from May 18th in the open air, in agreed clubs and under strict conditions and indoor activities (without contact) from June 8th. Competitions could restart on June 8th but without public (allowed from July 1st for a maximum of 50 competitors and 200 persons as public). Swimming pools all also reopen in July.

Prison visits are allowed again from May 25th, but only one visit per prisoner per week, preferably always the same person, with physical distancing.

## **5. Are there specific policies/guidelines concerning the screening of COVID19 and/or the use of e-health technologies/applications processing personal data?**

Different strategies for tracing the contacts of all COVID-19 positive patients have been considered. A federal legal framework has been studied; the principle is that the technology has to be open source, only anonymised data will be used, and Bluetooth technology would be used rather than geolocation technologies. If different applications are to be used in the different regions, they should be compatible with each other and with the federal eHealth platform. On April 30th, the Belgian Data Protection Authority published some recommendations and conditions regarding such an application (Dutch:

<https://www.gegevensbeschermingsautoriteit.be/nieuws/adviezen-van-de-GBA-op-voorontwerpeninzake-opsporingsapplicaties-en-covid-19-databanken> )

Meanwhile, the solution of 'human' tracing (by telephone) has been preferred to technological tracing, at least for the first stage. The principle is that Sciensano centralises the data from all test results (which has been the case since the beginning of the epidemic); these results are then dispatched to the health administrations of

the federated entities who organise contact tracing at the local level (telephone calls to the patients in order to identify all their contacts). The Inter-ministerial conference agreed that identical procedures should be followed in all federated entities and a working group was created in order to set up a common platform and tools. From May 4th, call centres have been set up. The contact tracking system has been gradually expanded to reach its maximum capacity in the following weeks. On May 20th the Inter-ministerial conference also agreed on a framework for enhanced surveillance of the epidemic in complement of the tracing. The aim is to detect any local resurgence of the virus, or a possible second wave, as soon as possible and to take targeted measures. The development of this second line of defence will be further refined so that it can be implemented in the short term by the infectious disease surveillance services of the federated entities.

There is a complex legal discussion going on about the organization of the contact tracing. The legal basis for the database of Sciensano (a Royal Decree on the basis of the temporary exceptional power of the Government) was strongly criticized by the Data Protection Authority, the Conseil d'Etat and privacy activists. A proposal to reform the legal framework is under discussion in the parliament ([www.dekamer.be](http://www.dekamer.be) – proposal 55/1249).

There is also a discussion going about the legal basis of temperature control in the airports and other public spaces. The Belgian Data Protection Authority issued an opinion about the privacy aspects of temperature control. The DPA accepts control without registration. For any form of registration new legislation is necessary, with respect for the GDPR-provisions concerning health data

<https://www.gegevensbeschermingsautoriteit.be/koorts-meten-het-kader-van-de-strijd-tegen-covid19>).

**6. Have new provision been introduced concerning liability, e.g. improved occupational injury schemes for health personnel, or civil or criminal liability immunity for healthcare professionals?**

There are no forms of civil or criminal immunity for healthcare professionals.

All the insurance-companies who are active in the healthcare-sector have temporarily broadened their coverage and confirmed that they would insure health care-professionals who worked out of their field of expertise or out of the legal limits of their profession.

Covid has been recognized as a professional illness. Not only for health professionals, but for everybody who had a professional risk of transmission.

**7. Have there been cases before the courts relating to health law due to the coronavirus outbreak?**

Not to my knowledge.

**8. A link to legal sources of your country (preferably in English)**

<http://www.ejustice.just.fgov.be/wet/wet.htm>

<https://www.info-coronavirus.be/en/>

<https://www.covid19healthsystem.org/countries/belgium/countrypage.aspx>

<https://www.sciensano.be/en>