

reopening of the courts and relaxation of the measures, the authorities also announced [a series of economic measures \(including spending vouchers\) to incentivise an economic revival](#).

MEASURES AFFECTING THE FUNCTIONING OF THE DEMOCRATIC STATE

Constitutional Majority: The latest developments coming from the courts linked to the Panama Paper revelations, high profile government members' involvement in corrupt schemes, and the ongoing Caruana Galizia investigation continue to paint a bad picture of the state of the nation. Although there is no direct relation between the crisis and these systemic faults, the government's attitude implies an attempt to gloss over grave concerns by confusing the return to normality from covid-19 with the return to normality from corruption. In this sense, the crisis has served as a distraction from extant problems rather than an aggravation.

There is concern that the economic revitalisation is a convenient platform for the government that might lead to the calling of a snap election. Such an election, combined with the power of incumbency risks consolidating an unassailable constitutional majority for a government that, notwithstanding all its democratic faults, and notwithstanding its being mired in corruption scandals, still enjoys the confidence of a majority of the population.

THE NETHERLANDS (ANTOINE BUYSE)

SPECIAL LEGAL REGIME

The Dutch government has not declared, in a legal sense, a state of emergency, nor has it indicated that it could no longer fully uphold the human rights to which it is bound through, for example, the ECHR. The Dutch [Constitution](#) has also not been used or applied in this sense to declare a state of emergency. Rather, the Public Health Act (*Wet publieke gezondheid*) was used. This Act allows for quarantine measures, largely to be taken by municipal authorities. The assumption has been that infectious diseases would first have to be contained locally. Since the pandemic quickly spread over the country in the course of March, the Minister of Public Health used his powers under Article 7 of the Public Health Act to instruct mayors to issue emergency regulations, which ranged from banning virtually all public gatherings and religious services to the closing of schools and restaurants. However, going outside was still allowed and much emphasis was laid on personal responsibility. The emergency regulations were enforceable, including with fines, for example for not keeping a 1.5 metre distance.

Having such local, but nationally coordinated emergency regulations was seen as a temporary and necessary step. These are currently still in force, but suffer from lack of democratic oversight and were [criticised](#) for being in tension with several constitutional rights. As the Constitution requires this for such limitations of people's fundamental rights, the government has now drafted [a formal law](#) on temporary measures and covid-19 (*Tijdelijke wet maatregelen Covid-19*), to be debated in and approved by Parliament in the coming weeks. While the step to do so was applauded as a matter of principle, the draft text was very heavily criticised for its contents by the [National Ombudsman](#), the [National Human Rights Institution](#) and leading constitutional law [experts](#). The concerns centred around the continuing lack of democratic oversight and the lack of explicit tools to weight conflicting human rights (e.g. the freedom of movement or the right to privacy versus the

right to health). While The Netherlands are currently in a phase of step-by-step loosening of the 'intelligent lockdown', as Prime Minister Mark Rutte dubbed it, the concern is also that in the case of a renewed flaring up of covid-19, the law would put too much power into the hands of the national and local executives (the government and mayors). The draft law is currently with the Council of State which has to advise about its constitutionality before it goes to Parliament. The government initially aimed for adoption before 1 July, but has deferred its plan until after summer, especially in light of the very fundamental criticism and the increasing societal resistance, ranging from [municipal councillors](#) to the [judiciary](#).

MEASURES AFFECTING RIGHTS OF CITIZENS

The current gradual easing of restrictions, since early May, means that initially severe interferences with human rights have also become less intrusive. Primary (since May) and secondary schools (since June) have partially or entirely reopened. However, higher education premises remain physically closed, with only very limited amounts of practice-based teaching and some exams being allowed again as of 15 June (otherwise all teaching remains online). The pandemic has not affected the right to vote so far, as no elections were planned to take place in the past or coming months. But the rule of 1.5m distancing between people not belonging to the same household remains in place (and enforceable by fines). Public gatherings, whether within buildings or outside, of any kind are prohibited for more than 30 people. The government's stated intention, medical circumstances permitting, is to increase this to 100 persons from 1 July onwards. Travel to a selected number of European countries is again more widely permitted. These are the key mandatory and enforceable [measures](#), which are combined with heavy-handed advice.

MEASURES AFFECTING THE FUNCTIONING OF THE DEMOCRATIC STATE

Parliament was not formally curtailed, but for many weeks it restricted itself to only the most crucial, purely covid-19-related work. Only since the end of May have debates on other matters slowly started to resume. On 16 June, Parliament by majority called for an [independent investigation](#) into the government's handling of the pandemic. As to the [work of courts](#), which initially went fully online, the most urgent (criminal and family law) matters are being handled in in-person court sessions again since 11 May (still a small share of all pending court cases). The general public is not yet allowed to attend, but the media are.

POLAND (JAKUB JARACZEWSKI)

SPECIAL LEGAL REGIME

Poland is currently under a statutory state of the epidemic, introduced on 20 March 2020 by the government under a procedure that does not involve the President nor Parliament under a 2008 statute on prevention of infectious diseases. The state of the epidemic was introduced indefinitely until further notice. The Polish Constitution features a distinct state of emergency – the state of a natural disaster – which is appropriate for introduction in the case of, among other things, a massive outbreak of a viral disease, but this state was not invoked. Controversies surround the choice of legal instrument. The state of epidemic enables the government to limit certain human rights through governmental resolutions (decrees). The timing of these limitations is varied; some have been introduced with a set time limit and a