Priority question for written answer P-000654/2023
to the Commission
Rule 138
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Subject: Consent requirements for HIV and viral hepatitis testing in the EU

Increasing and routinising HIV testing is crucial to solving the EU's late HIV diagnosis problem. The World Health Organization and the European Centre for Disease Prevention and Control recommend removing legal and health policy requirements for written consent for HIV and viral hepatitis testing. Research and expert consensus support verbal communication for requesting consent for testing after receiving pretest information, as with other clinical examinations (e.g. measuring blood biochemistry, testing for COVID-19).

However, some EU countries maintain laws requiring written consent for testing. If there are no such impediments, healthcare organisations' ethics committees often cite General Data Protection Regulation (GDPR) provisions on conditions for consent as restrictions on waiving written consent in organised screening efforts for non-research purposes, ignoring that the GDPR provides for recording consent 'by a written statement, including by electronic means, or an oral statement'. The result is a patchwork of practices, time and logistical challenges for providers and unfair treatment of patients, whose access to preventive care opportunities varies within the EU — often within the same country.

Given the medical, legal and ethical dimensions of this issue, can the Commission clarify whether requesting verbal consent for HIV and viral hepatitis testing is legal within the European framework ensuring adequate patient and provider protection?

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