



22.9.2022

## NOTICE TO MEMBERS

**Subject:** Petition No 1397/2020 by Hilde De Smet (Belgian), on behalf of “Docs 4 open debate”, on the fundamental rights and freedoms of EU citizens during the COVID-19 pandemic

Petition No 1399/2020 by Thibault Mercier (French), on behalf of Cercle Droit & Liberté, on the fundamental rights and freedoms of EU citizens during the COVID-19 pandemic

Petition No 1401/2020 by A.R. (Portuguese) on the fundamental rights and freedoms of EU citizens during the COVID-19 pandemic

Petition 1402/2020 by Fabrice Hamel (Belgian), on behalf of United Health Professionals, on breaches of fundamental rights in the COVID period

Petition No 1438/2020 by E.I. (Romanian) on the fundamental rights and freedoms of EU citizens during the COVID-19 pandemic

Petition No 1469/2020 by H.R. (Norwegian) on fundamental freedoms and citizens' rights in the EU amid Covid-19

Petition No 1501/2020 by D.K. (Irish) on Covid-19: fundamental rights and freedoms of the citizens of the European Union

Petition No 0046/2021 by A.N.N. (Irish) on fundamental rights and freedoms of the citizens of the European Union amid Covid-19

Petition No 0106/2021 by Udo Leibmann (German), on behalf of United for Freedom, on fundamental rights and freedoms of the citizens of the European Union amid Covid-19

Petition No 0152/2021 by Mikael Nordfors (Swedish) on behalf of Frihet

## **Sverige, on fundamental rights and freedoms of the citizens of the European Union amid Covid-19**

### **1. Summary of petition 1397/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. She points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context she asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. She also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 1399/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. He alerts the European Parliament about excessive public health countermeasures imposed by EU governments and points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality

of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context he asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States, which may have exceeded them. He also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 1401/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. He points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context he asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of

the Treaty on European Union against Member States which may have exceeded them. He also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

#### **Summary of petition 1402/2020**

The petitioner says that she is speaking on behalf of a group of lawyers, solicitors, physicians, journalists, artists, businesspeople and members of other professions who are concerned about the state of fundamental rights in Europe. She says that governments are ordering drastic measures such as lockdowns of shops and imposing closing times, etc., with no democratic participation and no clarity among researchers and physicians. While the first lockdown might have been justifiable because of the unexpected situation, this is no longer the case. The economy is in danger, and mental health and social security, which are equally important for people's wellbeing, are being disregarded, so that essential rights enshrined in the European Charter of Fundamental Rights are being violated. The petitioner calls on Parliament to adopt a position.

#### **Summary of petition 1438/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. She points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context she asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. She also asks the European Parliament to provide documentary evidence of the justification for the

measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 1469/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. She points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context, she asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. She also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 1501/2020**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. She points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer



proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context, she asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. She also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 0046/2021**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. She points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context, she asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during

this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. She also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 0126/2021**

The petitioner considers that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The petitioner alerts the European Parliament about excessive public health countermeasures imposed by EU governments. He points out that while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioner denounces that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioner indicates that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context, he asks the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioner calls for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period, to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. He also asks the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

### **Summary of petition 0152/2021**

The petitioners consider that the European Parliament should take position on exceptional measures to combat Covid-19 and ensure that the EU budget is implemented in accordance with the principles recognised in the Charter of Fundamental Rights of the European Union. The

petitioners alert the European Parliament about excessive public health countermeasures imposed by EU governments. They point out that, while the unprecedented situation at the beginning of 2020 may have justified violations of the fundamental rights and freedoms of EU citizens, the lockdowns, curtailments and other subsequent restrictions are no longer proportionate, justified or evidence-based. Furthermore, the petitioners denounce that the lack of consensus of the European scientific and medical community raises serious concerns about the proportionality of these countermeasures. While it is stated that these public health restrictions are supported by scientific evidence, there is a lack of consensus on the following: scale of the pandemic; suitability of PCR tests as a diagnostic tool; SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; attribution of deaths to Covid-19; justification for the proposed mass vaccination based on the precautionary principle. The petitioners indicate that the numerous limitations on essential public freedoms are being underestimated and that this leads citizens to fear the worst for the future of Europe and its democracies, legal systems, economies, lifestyles and generations to come. In this context, they ask the European Parliament to set up a parliamentary inquiry committee to examine impartially the relevance of the public health policies implemented by the Member States since March 2020 and to verify the events that triggered and amplified the management of the Covid-19 crisis, as well as the social, economic and health crises that occurred. The petitioners call for an assessment of the necessity, proportionality and justification of the exceptional measures taken by the Member States during this period to investigate non-compliance with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union against Member States which may have exceeded them. They also ask the European Parliament to provide documentary evidence of the justification for the measures imposed: legislation enacted, economic impact, proportionality assessment, consideration of fundamental rights and application of the precautionary principle. This information will enable European citizens to fully assess the impact of these measures on their personal situation in order to seek a legal remedy, to lift these restrictions for lack of competence and to obtain compensation from the EU Court of Justice.

## **2. Admissibility**

Petition 1397/2020 was declared admissible on 23 March 2021.  
Petition 1399/2020 was declared admissible on 23 March 2021.  
Petition 1401/2020 was declared admissible on 23 March 2021.  
Petition 1402/2020 was declared admissible on 23 March 2021.  
Petition 1438/2020 was declared admissible on 26 March 2021.  
Petition 1469/2020 was declared admissible on 31 March 2021.  
Petition 1501/2020 was declared admissible on 14 April 2021.  
Petition 0046/2021 was declared admissible on 30 April 2021.  
Petition 0126/2021 was declared admissible on 28 Mai 2021.  
Petition 0152/2021 was declared admissible on 28 Mai 2021.  
Information requested from Commission under Rule 227(6).

## **3. Commission reply, received on 22 September 2022**

Petitions 1397/2020, 1399/2020, 1401/2020, 1402/2020, 1438/2020, 1469/2020, 1501/2020, 0046/2021, 0126/2021, 0152/2021

The petitioners are of the opinion that several measures put in place by the Member States to



fight the Covid-19 outbreak should be assessed by the EU institutions as regards their necessity, justification and proportionality. The institutions are asked to investigate about the compliance of such measures with the Union's founding values, such as respect for human dignity, freedom and respect for democracy and to consider activating Article 7 of the Treaty on European Union (TEU) against Member States which may have exceeded them. The petitioners are of the opinion that those measures are not proportionate and not based in any scientific grounds. The petitioners refer in particular to the lack of scientific evidence on the scale of the pandemic; the suitability of PCR tests as a diagnostic tool; the SARS-CoV-2 infection rate and its transmissibility in asymptomatic cases; the attribution of deaths to Covid-19; and the justification for the proposed mass vaccination based on the precautionary principle.

In addition, the petitioners asked the European Parliament to clarify the procedure and its role ensuring the transparency of the decisions regarding the purchases of vaccines and the impact on the EU budget. They also request further information in particular on the European Parliament's role in formulating recommendations and ensuring transparency as regards the implementation of the EU budget and the recovery plan.

### The Commission's observations

In principle national governments decide on the specific measures to be implemented based on each country's national epidemiological and social situation.

Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health provides the legal framework for EU cooperation in the area of health security until the new proposals are adopted. It supports EU Member States to fight cross-border threats and helps to protect citizens against possible pandemics and serious cross-border health threats by:

- strengthening [preparedness planning capacity](#) at EU level by reinforcing co-ordination and best practice and information sharing on national preparedness planning;
- operating a [rapid alert system](#) for notifying serious cross-border threats to health that require a coordinated response at Union level – the EU Early Warning and Response System;
- improving [risk assessment and management](#) of cross-border health threats;
- establishing the necessary arrangements for the development and implementation of a [joint procurement mechanism of medical countermeasures](#) and deployment mechanisms for medical countermeasures<sup>2</sup>;
- enhancing the [coordination of an EU-wide response](#) by providing a solid legal mandate to the Health Security Committee to co-ordinate national responses to serious cross-border threats to health and risk and crisis communication to provide consistent and coordinated information to the public and the health care professionals; and
- fostering [international cooperation and global action](#).

Since the beginning of the pandemic, the Commission has been working closely with Member States, and is supported by the European Centre for Disease Prevention and Control (ECDC) which provides objective information about the spread of the virus and effective efforts to

---

<sup>1</sup> [Decision No 1082/2013/EU of the European Parliament and of the Council of 22 October 2013 on serious cross-border threats to health and repealing Decision No 2119/98/EC Text with EEA relevance \(europa.eu\)](#).

<sup>2</sup> Documents on Joint Procurement of medical countermeasures available at: [https://health.ec.europa.eu/health-security-and-infectious-diseases/key-documents\\_en?f%5B0%5D=topic\\_topic%3A36](https://health.ec.europa.eu/health-security-and-infectious-diseases/key-documents_en?f%5B0%5D=topic_topic%3A36)

contain it<sup>3</sup>. In addition to producing risk assessments and epidemiological updates, the ECDC provided scientific opinions and technical guidance also in collaboration with the European Medicine Agency (EMA) and other European agencies at the request of the Commission, the European Parliament or a Member State, about the risks posed by infectious diseases. The ECDC Advisory Forum<sup>4</sup> advises the Director of the Centre on the quality of the scientific work undertaken by the ECDC. The Advisory Forum is composed of senior representatives of national public health institutes and agencies, nominated by the Member States on the basis of their scientific competence, and a public health official from the European Commission. It serves as a mechanism for exchanging information, pooling health knowledge and furthering public health cooperation.

The Health Security Committee is a key forum for exchange of information on specific measures adopted by each country and, together with the Commission, defines the actions to be taken on preparedness, planning, risk and crisis communication and response. It is composed of representatives of EU countries' health authorities with candidate and potential candidate countries participating as observers<sup>5</sup>. The HSC has had frequent [meetings](#) since the beginning of the COVID-19 pandemic<sup>6</sup>.

All the information on the activities of the Commission regarding the COVID-19 response are available at: [https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response\\_en](https://ec.europa.eu/info/live-work-travel-eu/coronavirus-response_en)

Concerning the alleged violation of citizens' fundamental rights, the Commission recalls that democracy, the rule of law and fundamental rights are founding values of the European Union.

Since the beginning of the COVID-19 pandemic, Member States' governments took emergency measures to address the health crisis caused by the outbreak of the coronavirus. The Commission has made clear from the outset that the response to the COVID-19 pandemic must fully respect the fundamental values set out in the Treaties; Emergency measures must be limited to what is necessary, strictly proportionate, clearly restricted in time, and in line with constitutionally enshrined safeguards. Moreover, EU Member States must ensure that such measures are subject to regular scrutiny also before courts, fully respecting democratic checks and balances. Effective national checks and balances upholding respect for the rule of law are key to ensuring that any such restrictions on citizens' rights are limited to what is strictly necessary and proportionate, limited in time and subject to oversight by national parliaments and courts.

The Commission is closely monitoring the emergency measures taken by Member States, and their impact, in particular on the rule of law, on fundamental rights, and on EU law. The Commission will continue monitoring the emergency measures taken in all Member States, until they are lifted.

On 15 June 2021, the Commission presented a [Communication](#) on the early lessons learnt from the COVID-19 pandemic over the past 18 months and building on them to improve action at EU and national level. This will contribute to better anticipate public health risks and enhance

---

<sup>3</sup> Risk assessments are available at: <https://www.ecdc.europa.eu/en/covid-19>.

<sup>4</sup> <https://www.ecdc.europa.eu/en/about-us/how-we-are-governed/advisory-forum>.

<sup>5</sup> Specifically for HSC meetings on COVID-19, countries such as United Kingdom, Switzerland and Ukraine are invited to participate to strengthen cooperation.

<sup>6</sup> The minutes of the HSC meeting are available at [https://ec.europa.eu/health/hsc\\_covid19\\_en](https://ec.europa.eu/health/hsc_covid19_en).

contingency planning leading to swifter and more effective joint responses at all levels<sup>7</sup>.

As regards the alleged violations of the fundamental rights as enshrined in the EU Charter of Fundamental Rights ('the Charter'), the Commission would like to recall that, according to Article 51(1), the Charter applies to Member States only when they are implementing EU law<sup>8</sup>.

As the organisation and the delivery of healthcare services, such as COVID-19 testing, fall within the competence of EU Member States, it appears that the matter to which the petitioners refer is not related to the implementation of EU law. In such cases, it is for the EU Member States, including their judicial authorities, to ensure that fundamental rights are effectively respected and protected, in accordance with their national legislations and constitutions, as well as their international human rights obligations. In case of alleged violations, the petitioners may wish to seek redress at the national level through the competent national authorities, such as through an ombudsman or through the courts.

The Commission will remain vigilant and closely monitor the application of emergency powers in practice. The Commission will not hesitate to take further action to uphold the Union's fundamental values referred to in Article 2 TEU, where necessary. Based on the information available, the Commission sees no grounds to activate the procedure of Article 7 TEU against any Member State in view of the measures taken to combat the COVID-19 pandemic on the premise that they are allegedly in breach of the values under Article 2 TEU.

Regarding the use of the EU budget, the European Parliament and the Council establish the Union's annual budget, which is implemented by the Commission<sup>9</sup>.

The Emergency Support Instrument (ESI)<sup>10</sup> enables the EU to provide support in a spirit of solidarity between Member States when a crisis reaches exceptional scale and impact, with wide-ranging consequences on the lives of citizens. In April 2020, the ESI was exceptionally activated to help Member States address the coronavirus pandemic. The tool is used to finance measures such as vaccine advanced purchase agreements, procurement of medical equipment and therapeutics, and support for cross-border transport of medical equipment, medical personnel and patients and continues to provide fundamental assistance in the fight against COVID-19, notably to make affordable and accessible testing.

Generally, the European Parliament has strong powers of scrutiny under different frameworks, notably those relating to the European Semester, EU budgetary procedures, written or oral questions and discharge procedures.

As concerns NextGenerationEU, the temporary instrument designed to boost the recovery, the Inter-institutional Agreement of 16 December 2020<sup>11</sup> between the European Parliament, the

---

<sup>7</sup> [https://ec.europa.eu/info/files/communication-early-lessons-covid-19-pandemic\\_en](https://ec.europa.eu/info/files/communication-early-lessons-covid-19-pandemic_en).

<sup>8</sup> <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012P/TXT&from=EN>.

<sup>9</sup> Articles 314 and 317 on the Treaty on the Functioning of the European Union.

<sup>10</sup> Council Regulation (EU) 2020/521 of 14 April 2020 activating the emergency support under Regulation (EU) 2016/369, and amending its provisions taking into account the COVID-19 outbreak, OJ L 117, 15.4.2020, p. 3.

<sup>11</sup> Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and

Council and the Commission ensures strong involvement of the budgetary authority in its governance. Notably, in accordance with the Recovery and Resilience Regulation<sup>12</sup>, the European Parliament can launch the recovery and resilience dialogue with the Commission and will be receiving information from the Commission on the Recovery and Resilience Plans (RRPs) submitted by the Member States, on the state-of-play of the Commission assessments and on Member States meetings, the agreed milestones and targets. In terms of transparency, the Commission is required to provide the Council and the European Parliament with the same level of information, simultaneously, without undue delay. More specifically, this relates to the RRP's officially submitted by the EU Member States and proposals for Council implementing decisions. Similarly, relevant outcomes of discussions held in Council preparatory bodies are to be shared with the competent committee of the European Parliament. The Commission is also required to provide the European Parliament's competent committee with an overview of preliminary findings concerning fulfilment of the milestones and targets in the RRP's.

### Conclusion

In line with Article 168(7) of the Treaty on the Functioning of the European Union (TFEU), the Union shall respect the responsibilities of the Member States for the definition of their health policy and for the organisation and delivery of health services and medical care. It is thus their responsibility to decide on the implementation of public health measures and the conditions under which this is done, in accordance with their national legislations and constitutions, as well as their international human rights obligations.

---

on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources OJ L 433I , 22.12.2020, p. 28–46.

<sup>12</sup> Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility OJ L 57, 18.2.2021, p. 17–75.