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Democracies facing the Covid-19 public health crisis: sharing experience and the way forward

Background document for theme 1 - Revised

1. The Covid-19 pandemic is more than a global public health crisis. The pandemic is also affecting the functioning of our democracies and has impacted a wide range of human rights and fundamental freedoms. The pandemic forced Council of Europe member States to take extraordinary measures to protect the right to life and public health, including restrictions on a number of individual rights and liberties enshrined notably in the European Convention on Human Rights.

2. The Council of Europe, through its statutory organs and many of its competent bodies and mechanisms, has been supporting its member States in finding effective and sustainable responses to this unprecedented health crisis, while upholding their common standards of democracy, human rights and the rule of law, thus ensuring that they do not become the “collateral damage” of the pandemic. The Council of Europe has emphasized that any restrictions imposed must be necessary, proportionate and limited in time.

3. The Parliamentary Assembly of the Council of Europe (the Assembly) has guided national parliaments in their efforts to tackle the pandemic and prepare for possible future crises. To this end, it has adopted a series of [reports](#) (and is preparing new ones) addressing various aspects of the ongoing health crisis and its effects. The Assembly has also introduced new provisions in its Rules of Procedure allowing it to continue functioning despite sanitary restrictions, by holding hybrid and remote meetings.

4. The Conference of Presidents of Parliament will be an opportunity to **share experience and promising practices** for the way forward, for use both as the crisis continues and to address similar future crises. The following elements, based on the Assembly reports, are intended to steer and inspire these discussions.

5. The Assembly has reaffirmed the **fundamental role of parliaments in overseeing government actions** – ensuring a functioning system of checks and balances – by notably mitigating any risk of abuse of emergency powers by governments and evaluating the effectiveness of measures taken to address the pandemic. The Assembly has underlined that multilateralism must remain at the heart of anticipating and addressing future similar threats and has called for full support to, but also reform of, multilateral organisations, such as WHO.

6. The Assembly has identified **fundamental democratic values and principles that must not be betrayed**, and has drawn attention to certain areas where challenges have occurred, such as:

- the sufficiency of the legal basis for introducing specific states of emergency, which in some cases did not cover the measures introduced, was unclear, introduced retroactively, or involved measures that themselves were unclear or constantly changing;
- limitation in time and scope of restrictive measures;

- derogations from the European Convention on Human Rights, which the Assembly considered may have been used too freely and perhaps unnecessarily;
- track-and-trace applications, which raised privacy and data protection issues;
- Covid “passes” and certificates, which raised issues related to public health, privacy and data protection, discrimination and the rule of law;
- Covid vaccines, vaccine distribution, hesitancy and mandates, which touched on ethical, legal and practical considerations;
- the functioning of judicial systems, which raised issues relating to the right to a trial within a reasonable time, equality of arms and public hearings;
- the situation of detainees and people living in institutionalised settings, who are particularly vulnerable to transmissible diseases and to the isolating effects of sanitary restrictions;
- corruption risks, notably in public procurement processes; and
- the role of Parliament, including the opposition.

7. In addition, the Assembly recalled the importance of **parliaments as guarantors of democracy in times of crisis**. It stressed that the continuity of parliamentary proceedings and the public coverage of its work also ensure the government’s legitimacy, promote transparency in policy making and enhance public trust, which can increase public adherence to emergency measures. With regard to elections during emergency situations, the Assembly suggested a set of principles, based on recommendations by the [Venice Commission](#).

8. The Assembly welcomed the fact that most parliaments had **adapted their working methods** so as to continue exercising their constitutional roles during the pandemic. It called upon parliaments to ensure the necessary adaptations to their internal structures, rules and procedures; carefully assess the government’s response to the pandemics, including the exercise of emergency powers, implementation of an exit strategy, and preparedness for possible new waves of pandemics; and review and, where necessary, revise legislation on emergency situations to ensure maximum efficiency while respecting fundamental principles of democracy, human rights and the rule of law.

9. When addressing the way forward, special focus has to be placed on the **alarming increase in violence against women and domestic violence** during the pandemic. The figures are distressing already during normal times, but the health crisis and the confinement exacerbated pre-existing violence in all Council of Europe member States. Cases reported increased drastically as a result of restrictions and provided perpetrators with additional power and control over their victims. At the same time, there were fewer police interventions, legal assistance was reduced, and courts closed, as well as most of the shelters. This left the victims alone in their “homes” with their abusive and violent partners.

10. The Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention) provides a framework for designing and implementing measures to guide authorities, including Parliaments, in ensuring that the obligation of states party to the Istanbul Convention to exercise due diligence to prevent, investigate, punish and provide reparation for acts of violence covered therein, is fully respected.

11. The Covid-19 pandemic has also had a **devastating impact on children**, who have faced family bereavement, isolation, the spread of poverty, and decreased access to public services (including health, education and social protection). Children’s physical and mental health, as well as equal opportunities for learning and development, have been affected. Violence against children has risen, including domestic and sexual violence. The Assembly has urged member States to build resilient social protection systems for children and their carers and ensure effective protection of children’s rights in times of crisis, and has called on national parliaments to support WHO and other aid programmes for children in order to guarantee financial stability and to provide practical support for children everywhere.

12. In addition, Parliaments must remain attentive as regards **unequal impact on different groups of government measures** introduced in response to the pandemic, notably on women, children and young people, people living in institutionalised settings, racialised people, Roma, migrants and LGBTI persons. They have often been disproportionately affected by the pandemic, due to both an increased risk of contracting the disease and “one-size-fits-all” measures inappropriate to their specific needs. The pandemic has also amplified discrimination on different grounds.

13. The Assembly called upon States to address these issues **not only in their immediate crisis responses, but also during the recovery period** and through measures designed to overcome structural inequalities in the longer term. It recommended adopting an inclusive, intersectional approach at every level of government, as well as in parliaments. Bodies responsible for crisis response (including parliamentary inquiry committees) must not only be competent but also diverse, gender-balanced and inclusive. They must ensure additional support to all persons who need it, with special measures where necessary to guarantee equality and non-discrimination. The Assembly also invited national parliaments to consider establishing an inquiry specifically focusing on equality issues exposed by the crisis and aggravated by government responses.

14. One of the key challenges that the Parliaments are addressing in the “aftermath” of the first waves of Covid-19 is **vaccination**. Not only is parliamentary oversight essential to ensure fair and efficient allocation of safe vaccines, but also as regards the respect of fundamental rights and equality with regard to Covid passes and certificates.

➤ **Questions for discussion**

- What were the most efficient ways of supervising government action in response to the pandemic?
- How did your parliament ensure that anti-Covid measures were compliant with European and international standards on democracy, human rights and the rule of law? Did your parliament refer to the work of Council of Europe bodies for guidance in this area?
- Based on its experience during the pandemic, is your parliament planning to review or revise legislation on emergency legal regimes? Is it planning to work together with multilateral organisations such as WHO and WTO in this endeavour?
- What specific measures were taken by your Parliament to ensure protection to women victims of violence? How do you intend to reinforce them?
- How did your parliament take into account the specific needs of vulnerable or disadvantaged groups, including children, and ensure that national policy responded to those needs?
- Are you satisfied that national provisions on the postponement of elections or for holding elections during emergency situations (such as the pandemic) are compatible with Council of Europe standards?
- How did your parliament accommodate requirements for physical distancing and confinement? Will your parliament continue using any new working methods developed during the crisis even after it is over?
- What more could the Parliamentary Assembly do to help national parliaments take account of the work of Council of Europe bodies on ensuring respect for common standards of democracy, human rights and the rule of law during health crises?

Appendix: Main reference documents

Parliamentary Assembly of the Council of Europe

[Resolution 2329 \(2020\)](#) Lessons for the future from an effective and rights-based response to the Covid-19 pandemic

[Resolution 2337 \(2020\)](#) Democracies facing the Covid-19 pandemic

[Resolution 2338 \(2020\)](#) The impact of the Covid-19 pandemic on human rights and the rule of law

[Resolution 2339 \(2020\)](#) Upholding human rights in times of crisis and pandemics: gender, equality and non-discrimination

[Resolution 2340 \(2020\)](#) Humanitarian consequences of the Covid-19 pandemic for migrants and refugees

[Resolution 2361 \(2021\)](#) Covid-19 vaccines: ethical, legal and practical considerations

[Resolution 2383 \(2021\)](#) Covid passes or certificates: protection of fundamental rights and legal implications

[Resolution 2384 \(2021\)](#) Overcoming the socio-economic crisis sparked by the Covid-19 pandemic

[Resolution 2385 \(2021\)](#) Impact of the Covid-19 pandemic on children's rights

Council of Europe

Secretary General of the Council of Europe

[Toolkit](#) for governments across Europe on respecting human rights, democracy and the rule of law during the COVID-19 crisis

Committee of the Parties to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention)

[Declaration of the Committee of the Parties on the implementation of the Istanbul Convention during the Covid19 pandemic](#)

Venice Commission

[Compilation on states of emergency](#)

Reflections on respect for democracy, human rights and the rule of law