

# CALL FOR ACTION: TIME TO STRENGTHEN THE EU'S PUBLIC HEALTH POLICY POWERS

9 of May, 2020

Europe is going through an unprecedented challenge caused by the COVID-19 pandemic. This is a health crisis, an economic crisis, and, potentially, a social crisis. It presents an existential challenge to the European project: are we doing enough to protect the health<sup>1</sup> of our citizens? Health, defined by the WHO as the absence of disease or infirmity and the state of complete physical, mental and social well-being, appeared to be two sides of the same coin. We, the undersigned, are calling on European leaders to heed the lessons learned during these tough times and strengthen the European Union's powers in the area of public health policy.

From the very beginning, the European project was about saving lives. When the French foreign minister Robert Schuman delivered his famous Declaration on 9 May 1950, he was outspoken about the importance of eliminating war in Europe. 70 years of peaceful development of the continent is proof that his project for peace, for saving lives, works.

In his quest for peace, Schuman indicated the importance of pooling European coal and steel production. The emphasis on heavy industry and later on agriculture became the backbone of European integration. Development goals such as saving lives, promoting good health and longevity vanished from the radar of big European policy in the absence of war.

Article 4 of the Treaty on the Functioning of the European Union (TFEU) speaks about "common safety concerns in public health matters". "The Union shall have competence to carry out action to support, coordinate or supplement the actions of Member States" in area of 'protection and improvement of human health' according to article 6, TFEU. Unfortunately, these statements have been watered down over time, often for political reasons. The Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2012/2002 approved in March 2020 states: "The European Union Solidarity Fund is based on the subsidiarity principle. This means that *the EU should intervene only in cases where a Member State is deemed no longer to be able to cope with a crisis alone and requires assistance*".

This very limited reflection of health matters in the European Treaties contradicts the main trends of socioeconomic development in today's modern societies:

- Since the entry into force of the Lisbon Treaty, European citizens are much more interconnected, notably due to the expansion of the single market and Schengen area, freedom of movement to live, work and travel, and the growth of low-cost air travel;
- Today, for example, in the Eurozone the health sector alone employs more labor than agriculture, fisheries, mining and heavy metal industries combined;
- Medical technologies have become so multifaceted that smaller Member States may not have the capacity to guarantee "leaving no one behind" in relation to rare and complex disease and rare cancers management;

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<sup>1</sup> Health is a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity.

- The public health emergency caused by COVID-19 follows crises triggered by Ebola, Zika, growing antimicrobial resistance and other challenges. In this time of globalization and climate change, these events occur frequently and cannot be considered as something “out of the blue”.

This latest outbreak shows that the European Union is not adequately prepared for the challenge of protecting our citizens’ health. There are serious weaknesses:

- Poor coordination of activities among Member States;
- Limited reserves of essential supplies;
- Lack of proper cooperation between national healthcare systems to mitigate the pressure of exponentially growing morbidity;
- Shortages of healthcare workers and medical supplies;
- Lack of operational capacity and solidarity to help Member States hit by the pandemic in efficient and timely manner.

It is abundantly clear that during the Covid-19 crisis, our citizens are asking the European Union to do more, but the hands of the EU institutions are tied. The Union can only operate on the basis of powers allocated by the Treaties. Accordingly, the European Commission has no legal basis to strengthen its own resources to address public health crises.

In the short term, EU leaders are taking action to tackle the health crisis according to the framework enshrined in the Lisbon Treaty. However, in the longer term, more can and must be done at the European level. Only a few weeks ago, the pledge “Health in all Policies” was considered by many as a lip service paid to active patient groups and medical professionals but now things have changed as businesses and borders were closed across Europe, and restrictions to walk freely in the parks or to talk to your neighbours were introduced in most of the countries.

Health is essential when it comes to the fair and sustainable development of our societies. Health is the greatest wealth we have, contributing to the well-being of individuals and paving the way for prosperous societies.

The role of health policy in the European Treaties should be reconsidered in order to tackle the “constitutional asymmetry” between strong regulatory and weak implementing powers of the EU in this area. The objectives to keep in mind are: more proactive public health, more solidarity in Europe, more cooperation to build resilient health care and cure systems. According to Robert Schuman “the fusion of markets and the expansion of production” in coal and steel was the top priority for Europe in 1950. Strengthening the public health systems is the top priority in 2020:

- Public health activities should be undertaken not only at national but also at EU level;
- The European Commission should not only regulate, coordinate, supplement and cooperate with Member States. The Commission should have its own resources and competences in the areas of public health and the treaty-based right to react as quickly as possible in dealing with certain public health emergencies, in coordination with Member States;

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- The EU should share responsibility in “care and cure” in the areas of rare cancers and rare diseases while preserving subsidiarity as a core principle.

We Europeans are today facing a substantial public health and universal health coverage crisis. We should use this emergency as a “focusing event” to push for initiatives that have been neglected for too long. We should not miss the opportunity to strengthen our solidarity, unity, and EU integration in the area of health policy.

The time is ripe to discuss how we can amend the European Treaties to reflect these new priorities. The best fora to have this discussion is the Conference on the Future of Europe which is expected to start in 2020 and run for two years. The discussion will enrich the narrative of interconnectivity between health, social and economic matters, benefiting all Europeans in the long run.

***Klaus Hänsch*** - *The 18th President of the European Parliament, the Member of the Presidium of the European Convention;*

***Violeta Bulc*** - *former European Commissioner for Transport, former Deputy Prime Minister of Slovenia;*

***Vytenis Povilas Andriukaitis*** - *former European Commissioner for Health and Food Safety, former Member of the European Convention, former Minister of Health of the Republic of Lithuania.*