

Exchange of view with Parliament's COVI Committee

Speech - **City** Brussels - **Country** Belgium - **Date** 07/09/2022

Honourable Members of the COVI Committee,

Dear Chair Van Brempt,

Thank you for the invitation. It is my pleasure to meet with this new Committee charged with a most important task.

The war in Ukraine might have displaced some of the attention paid to Covid-19 but the lessons to be learned from this Committee's work and future report will have relevance not just to future health threats on that scale but also to crises more generally. Every crisis is unique but politically and administratively, they almost certainly share some common features.

Two years later we continue to try to take full account of what happened.

In the first weeks of the pandemic, as the scientific community struggled to find measures to control the spread of the virus and the institutions began to deal with an unprecedented crisis, my Office wanted to contribute in accordance with its own mandate.

I therefore wrote for example to the Commission's and the Council's Presidents reminding them that despite new forms of remote working and meeting, standards of accountability and transparency should be upheld and therefore **meetings with lobbyists, although done via video, had to continue to be recorded and published.**

Public trust is vital at times of crisis. Without it citizens could not have been persuaded to shut down their own lives and the lives of their families and to accept the vaccines, developed and distributed at unprecedented speed. Trust is especially sensitive at EU level, where the institutions seem remote from citizens and the personnel unfamiliar.

And this is where transparency becomes vital; an instrument of scrutiny which in turn promotes citizen trust.

But transparency only works if what is made transparent is also communicated to those who need to see it.



In this context, my Office therefore inquired into the European public health agency based in Stockholm, **the European Centre for Disease prevention and Control (ECDC)** . As you know, the agency was created in 2005 in the aftermath of the SARS outbreak which in 2003 killed one person in Europe.

Though not the agency's fault, its title understandably conveyed a capacity that at least in the early days of the pandemic it was in a weak position to display. It was not widely known that the agency had no independent capacity to collect data but rather relied on the member states to give it to them.

Initially overplaying Europe's capacity to deal with virus, the ECDC also - like other broadly similar authorities globally - equivocated over the efficacy of face masks - a measure that would subsequently become mandatory in many parts of the world.

One of the issues I therefore addressed in my inquiry was the agency's capacity to gather and communicate information on the virus in a timely and comprehensive manner. This was largely due, as I have just indicated, to the low level of responsiveness of Member States, when raw data was requested.

Following my inquiry, the ECDC put in place measures to make it easier for the public to follow the evolution of its scientific advice, and committed to increase transparency in its exchanges with its international partners.

The weaknesses identified arose from the way the agency had been set up in the first place, as Member States had been reluctant to give it a prominent role when it was created especially as public health remains within their competence.. I understand that the legislators are working on a revised mandate of the agency and Parliament have agreed on its position. My Office will continue to follow with interest the developments on this important agency.

One of the latest inquiries of possible interest to this Committee concerns the access to the Commission President **text messages reportedly** exchanged with Pfizer CEO on the Advanced Purchase Agreements for the company's vaccines.

The request to access these messages followed a report in the New York Times newspaper about what was described as the examples of 'personal diplomacy' used by the Commission President to reach an agreement on the vaccines.

During the inquiry, it emerged that the Commission does not consider that text messages generally fall under its internal criteria for document recording, due to the 'short-lived' nature of their content. The Commission services had asked the Commission President's Cabinet to identify only documents that fulfil its recording criteria. As such, the Commission President's Cabinet was not required to identify any text messages that had not been registered, and the Commission therefore did not assess whether such messages should be disclosed.

I considered that this constituted maladministration and asked the Commission to ask the



Commission President's Cabinet to search again for relevant text messages, making it clear that the search should not be limited to registered documents or documents that fulfil its recording criteria.

In its reply, the Commission acknowledged that text and instant messages could be considered as 'documents', in the meaning of Regulation 1049/2001, and therefore subject to an access request. However, it reiterated that the Commission President's cabinet found no relevant text messages falling under the scope of the request and meeting the Commission's criteria for registering documents.

I therefore upheld the finding of maladministration.

Not all work-related messages should be recorded of course but those related to EU decisions, especially in the context of a procurement procedure worth 100m of euros should be at least retrievable.

Public access to work-related messages is permissible under EU transparency law, **regulation 1049/2001**. According to the law, relevant information is defined as a document regardless of the means used. And as, increasingly, new technologies are being used to conduct public work, the EU institutions have to find ways to ensure that accountability is not lost through the use of these faster and easier forms of communication.

This is why, in parallel to the inquiry, I opened an initiative asking the main EU institutions and bodies about their policy on the recording of work-related text messages. Based on the replies, I drew up a list of recommendations to ensure that relevant text messages exchanged by the administration are recognised as EU documents and advised the institutions to prepare adequate guidance for EU staff to know how to record such messages and ensure that there are feasible technological solutions to do so in a user friendly way.

The way in which the Commission dealt with this inquiry provoked a degree of disquiet among citizens and was the Commission was subject of negative media and other commentary. It is entirely understandable, and commendable, that the Commission President would want to secure new vaccine outlets after the Astra Zeneca problems but accountability is nonetheless still required to maintain public trust.

Last week the New York Times reported that the American CDC is about to publish a report on the lessons learned in US from the pandemic. The report has not been released yet, but it seems that in its analysis the agency recognises that mistakes were made. This *mea culpa* is an important and perhaps an important new element in the public debate, which I very much welcome.

Decision-makers need to make choices that serve the interests of citizens. They also need to be open with them, and this implies admitting if something went wrong. My Office contributes to reinforce this trust, by pushing the EU administration always to do better in terms of being ethical and accountable to its public. As you saw from the examples I just provided, sometimes



this means supporting its work and other times it means being critical of it. I look forward to following the outcome of your important work that touches upon all the key aspects of the impact that COVID has had on our lives.

Honourable Members, we are living in a climate crisis, energy prices are soaring and we expect economic and social consequences from this, the brutal war perpetuated by Russia against Ukraine aims to undermine the values our democracies are based on. We are all here, with very different roles, to learn from past mistakes and be better prepared to face these challenges in a systemic way rather than ad hoc.

Thank you.