Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 2470 (2022)[1]

Protecting the pillars of democracy during health crises

Parliamentary Assembly

1. The Covid-19 pandemic that swept across the world in early 2020 was and is above all one of the most significant public health crises in contemporary history, and the crisis with the most serious repercussions for health, societies, economies and freedoms. Saving lives and protecting citizens' health through the introduction of exceptional restrictions were, legitimately, governments' main priorities. The pandemic and the emergency measures taken to end it have therefore had a major impact on all aspects of people's lives and societies.

2. The Parliamentary Assembly refers to all the resolutions and recommendations on the various aspects of this crisis which it has adopted since 2020. It draws particular attention to Resolution 2337 (2020) and Recommendation 2179 (2020) "Democracies facing the Covid-19 pandemic" in which it took stock of the pandemic's impact on the way democratic institutions work and warned Council of Europe member States against any attempt to use the public health emergency resulting from the pandemic to undermine the fundamental principles of democracy.

3. Overall, pandemic management by member States ensured the resilience, the continuity and proper functioning of democratic institutions and mechanisms, including the democratic system of checks and balances, parliamentary work and the holding of elections, even at the most difficult times of the pandemic, and paved the way for a gradual return to normal.

4. New crises or emergencies of a different nature could, however, again prompt public authorities to take exceptional emergency measures that call into question the democratic order. The Assembly therefore calls for vigilance to be exercised and considers it necessary to reiterate the importance of ensuring that the key mechanisms and institutions of democracy function properly, with particular attention being paid to parliaments, elections, local democracy and civil society organisations.

5. Parliaments are vital democratic institutions that play a crucial role in representing, deliberating, legislating and overseeing government action, thereby ensuring the legitimacy of the democratic system. The pandemic has severely tested parliaments' capacity to perform some of these core functions. The Assembly is concerned that, two and a half years on from the outbreak of the pandemic, the governments of some Council of Europe member States are still using exceptional powers and procedures, and are therefore able to escape parliamentary scrutiny.

6. The Assembly points out that it is of the utmost importance to ensure the continuity of parliamentary work and the full exercise of parliaments' powers during crisis situations. To this end, it calls on the authorities of member States and observers of the Council of Europe and countries whose parliaments have observer or partner for democracy status with the Assembly to:

6.1. make the necessary changes to parliamentary structures, rules and procedures, preferably on the basis of a consensus between the main political forces, to ensure the continuity of parliamentary business during emergencies, in particular as regards the physical or hybrid presence of their members and adjusting voting arrangements;

1. *Text adopted by the Standing Committee*, acting on behalf of the Assembly, on 25 November 2022 (see Doc. 15650, report of the Committee on Political Affairs and Democracy, rapporteur: Ms Marietta Karamanli).

6.2. ensure permanent and effective scrutiny by parliamentarians of government decisions, in particular by simplifying the procedures for putting oral or written questions to the government, initiating thematic monitoring and organising fact-finding missions and regular hearings in committee of government members, in order to provide legal safeguards against possible infringements of fundamental rights and freedoms;

6.3. involve parliamentarians in the work carried out by scientific authorities in order to guide decision making on how to combat the disease, protect the public and return to normal as quickly as possible, as well as on how to counter misinformation;

6.4. involve parliamentarians in the co-ordination work carried out between State services and local authorities in order to monitor the implementation of measures taken at local level and ensure their autonomy to the fullest extent possible;

6.5. provide for parliamentary scrutiny of the crisis management through parliamentary committees of inquiry or parliamentary missions, both during and after the crisis;

6.6. consider, where appropriate, the possibility of bringing cases before judicial bodies (constitutional courts or councils, or high courts) throughout the period of emergency in order to check whether measures taken by the government are necessary and proportionate to the urgency of the situation.

7. The Assembly points out that the right to participate at regular intervals in free elections on the choice of the legislature is a fundamental human right. The pandemic disrupted the standard election timetable in several member States, which decided to postpone or suspend elections or referendums. In addition, the introduction of restrictive measures to curb the pandemic's spread affected freedom of movement and freedom of assembly, which are vital to any electoral process.

8. The Assembly reiterates its call to member States to apply the principles devised by the European Commission for Democracy through Law (Venice Commission), when deciding whether to postpone, or change the procedures for, elections during a public health emergency, and refers to Resolution 2337 (2020). It also calls on member States that have not yet done so to adapt or amend legislation on elections in advance so as to allow the electoral process to continue during public health crises, and to provide for, among other things:

8.1. new campaigning methods, such as the use of public or private media, the use of the internet and social media;

8.2. expanding voting arrangements, for example by extending the right to vote by proxy and increasing postal voting, as well as by considering the introduction of e-voting;

8.3. increasing the limits on election spending for periods beyond the initial election deadline;

8.4. the need to ensure the conditions for effective electoral competition by enabling local debates to be held, including by media which are usually not required to reflect a plurality of opinions;

8.5. implementing public health measures and taking other steps to ensure that votes can be cast and that observation missions can take place.

9. The pandemic has had a major impact on the functioning of local and regional democracy and has brought about a shift in the balance of power between local, regional and national levels. Several States centralised crisis management at national government level on the one hand while, on the other hand, making local authorities responsible for the management, and consequences, of the pandemic, without providing the necessary resources or giving them the opportunity to take part in drawing up policies and decision making.

10. The Assembly appreciates the outstanding work undertaken by the Congress of Local and Regional Authorities of the Council of Europe (the Congress) to monitor compliance with the European Charter of Local Self-Government (ETS No. 122), even during the pandemic. It calls on the authorities of Council of Europe member States to:

10.1. address the recurring issues relating to the charter's implementation which were compounded by the pandemic, as identified by the Congress, in particular with regard to limited local financial autonomy;

10.2. strengthen the level of resilience and preparedness for future health emergencies or crises by striking the right balance between centralised and decentralised authorities within multilevel governance systems and ensuring that they interact effectively;

10.3. amend electoral legislation so that local elections may be held during emergencies or health crises.

11. Civil society organisations are a key part of any truly democratic system. They enable citizens to act collectively in many areas of common interest and are a key pillar of public life. The restrictions that authorities have imposed to curb the pandemic's spread have had a serious impact on the situation of civil society. However, many civil society organisations have pursued their role in promoting human rights, acting as watchdogs, monitoring government responses to the pandemic and holding policy makers accountable.

12. The Assembly considers that fostering a safe and vibrant space for civil society is vital for sustaining social cohesion, the rule of law and a healthy democracy. It refers to Resolution 2471 (2022) "The impact of the Covid-19 restrictions for civil society space and activities" and calls on the authorities of the member States to strengthen the protection of fundamental rights in all circumstances and help provide an environment in which civil society organisations may continue to perform their function.

13. Lastly, the Assembly calls on the authorities of the member States and observers of the Council of Europe and countries whose parliaments have observer or partner for democracy status with the Assembly to carefully examine the lessons to be learned from managing the Covid-19 crisis and from its impact on the functioning of institutions which are pillars of democracy and on respect for human rights and fundamental freedoms, with a view to ensuring that future public health crises and emergency situations do not undermine crucial aspects of democratic order. In particular, it stresses the importance of:

13.1. guaranteeing access to reliable information and ensuring freedom of expression, including on crisis management;

13.2. enhancing the protection of the most vulnerable population groups and minorities who have difficulties in accessing public services or asserting their rights, including their right to healthcare;

13.3. paying particular attention to personal data protection in the light of the increasing reliance on digitisation and data processing both online and in specialised information systems, including for healthcare.