PREFACE

1. The first contamination of COVID-19 was detected in the Netherlands on February 27, 2020. After the WHO qualified the outbreak as a pandemic on March 11, 2020, countries around the world have taken drastic measures to an extent without precedent in modern history. In the Netherlands, too, the outbreak has led to rigorous measures whereby social traffic has been virtually stopped by the closure of schools, universities, libraries, museums, cinemas, restaurants, cafes, gyms and hairdressing shops. In addition, severe restrictions have been imposed on the freedom of movement of the population, as a result of which the non-closed section of society can only function limited to very limited. Emergency regulations are enforced to enforce the imposed social restrictions and to encourage everyone to stay at home as much as possible. Recreation areas and sports facilities have also been closed or made inaccessible. The official death toll in the Netherlands after more than two months of measures is 5,830 people who died with COVID-19 (May 25, 2020). Although the actual number who died with COVID-19 is considerably higher, it has now been established that the virus has only contributed substantially in rare cases to the cause of death. The virus mainly makes victims among the elderly with underlying conditions. The damage caused is almost incalculable. The government estimates the budget deficit for this year at best at 92 billion euros. In addition, it is expected that the death toll as a result of the measures will far exceed the number of victims of COVID-19, while the expected psychological consequences cannot yet be predicted. The functioning of the democratic constitutional state has been severely curtailed and the fundamental rights of citizens have been largely ineffective. At the moment, the measures are still largely in force and their damage is increasing daily. Plaintiffs consider that, irrespective of whether or not the initial measures taken were justifiable at the time, the continuation of this situation in the current circumstances and with the advancing scientific understanding of COVID-19 is unacceptable. In these summary proceedings, plaintiffs therefore demand an immediate prohibition on extension and lifting of the measures still in force today. This summons will first provide an overview of the facts, followed by the legal analysis of the measures and the assessment framework of the European Court of Human Rights for these types of exceptional situations. The decision-making, the purpose and effectiveness of the measures are examined on the basis of these criteria. This is followed by an analysis of the danger of COVID-19 and a description of the consequences of the measures. Based on these consequences, proportionality is investigated to conclude with the conclusion. followed by the legal analysis of the measures and the assessment framework of the European Court of Human Rights for this type of exception. The decision-making, the purpose and effectiveness of the measures are examined on the basis of these criteria. This is followed by an analysis of the danger of COVID-19 and a description of the consequences of the measures. Based on these consequences, proportionality is investigated to conclude with the conclusion. followed by the legal analysis of the measures and the assessment framework of the European Court of Human Rights for this type of exception. The decision-making, the purpose and effectiveness of the measures are examined on the basis of these criteria. This is followed by an analysis of the danger of COVID-19 and a description of the consequences of the measures. Based on these consequences, proportionality is investigated to conclude with the conclusion.

FACTS

The WHO declared a pandemic

2. The amended International Health Regulations (IHL) were adopted by the World Health Organization (WHO) member states in 2005 and entered into force in 2007. This treaty provides for cooperation between the 196 Member States to combat the international spread of diseases and other health risks and to prevent unnecessary disruption of international movement of goods and people.

3. The IHL provides that in the event of a virus outbreak in a Member State, this must be reported to WHO. Article 12 IHL empowers the Director General of WHO to determine whether a reported case constitutes a Public Health Emergency or International Concern (PHEIC). The IHR defines a PHEIC as an extraordinary event which is determined to constitute a public health risk to other States through the international spread of disease and to potentially require a coordinated international response. This is the case if there is a serious and unusual situation that has health implications beyond the borders of the affected state and may require immediate and international action.

   ♣ 2009 H1N1 influenza pandemic;
   Set 2014 setbacks in polio global eradication efforts;
   ♣ 2014 West Africa Ebola epidemic;
   ♣ 2016 Zika virus outbreak;
   ♣ 2018-'19 Kivu Ebola epidemic.

4. Following the outbreak of COVID-19 in China, an Emergency Committee meeting was held on 22-23 January 2020, led by the Director-General. At this meeting, there was insufficient support to qualify the outbreak as a PHEIC. According to data from China, the virus is thought to cause serious complications in 25% of infections with a 4% fatality rate. The human-to-human transmissibility of the virus and an estimated transfer rate R0 of 1.4 to 2.5 is considered a cause for concern. However, the countries of the European Union thought it was too early to scale up the case to a PHEIC. During a follow-up meeting on January 30 of the Emergency Committee, these countries still agree with the proposal to scale up COVID-19 to a PHEIC.

   Production 1: Statement Emergency Committee January 23, 2020
   Production 2: Statement Emergency Committee January 30, 2020

5. In a news conference on March 11, 2020, the Director General of WHO qualified COVID-19 as a pandemic. According to the Director General, 4,291 people worldwide had died with COVID-19 at the time. In unprecedented firm terms, Director General calls on the Member States to 'urgent and aggressive action'. In accordance with Article 49 of the IHL, recommendations have been made to Member States as to the measures to be taken. According to the definition changed for unclear reasons in 2009, a pandemic is the worldwide spread of a new disease. The harmfulness of a virus is therefore no longer a criterion for declaring a pandemic.

   Production 3: statement by director-general March 11, 2020

The response in the Netherlands to the appeal of the WHO

6. An Outbreak Management Team was convened on January 24, 2020. This team of experts, composed by the National Institute for Public Health and the Environment (RIVM), advises the Ministry of Health about the virus and possible measures to be taken. , as referred to in Article 1 (e) of the Public Health Act. This decision was published in the Government Gazette on 31 January 2020.

   Production 4: ministerial decision 28 January 2020

7. In a letter dated February 14, 2020, the Minister for Medical Care stated that no infections have yet been found in the Netherlands. The aim of the current policy is to prevent dissemination within the Netherlands if an incidental introduction presents itself.

   Production 5: letter February 14, 2020

8. In a letter from the Minister for Medical Care to the House of Representatives of 6 March 2020, persons with symptoms of illness in Noord-Brabant are called upon to stay at home as much as possible and to keep their distance from other people.

   Production 6: letter March 6, 2020

9. By letter of March 13, 2020, the Minister of Justice and Security informed the House that a national crisis structure is being set up to deal with the broad social consequences of the outbreak COVID-19 (corona virus) in accordance with the Institutional Decree Ministerial Crisis Management Committee 2016 (Government Gazette. 2016, no.48258) and the National Crisis Decision-making Manual.

   Production 7: letter to the House of March 13, 2020

10. After the number of infections increases, a press conference of the Prime Minister on March 9, 2020 advises everyone to observe hygiene measures and to work at home as much as possible. From March 11, 2020, meetings of more than 1000 people are prohibited in the province of Brabant. Further measures, including a ban on events of more than 100 people, will be announced in a Prime Minister's press conference on March 12, 2020. This prohibition also applies to activities in the cultural sector such as concerts, cinemas and music events. On March 15, 2020, the limit of 1,000 deaths with COVID-19 will be exceeded. The OMT comes with additional advice. The aim is to provide advice on additional measures for the whole of the Netherlands aimed at maintaining good care for the seriously ill and people from groups vulnerable to coronavirus infections. The OMT does not recommend closing the schools. On this Sunday, at about half past five in the afternoon, it was announced that all food and beverage outlets (except those in hotels), sports and fitness clubs, saunas, sex clubs and coffee shops were to close from 6 pm that day.

    Production 8: advice OMT March 15, 2020

11. The cabinet decides to close all schools and day care centers from March 16, 2020. This concerns schools in primary and secondary education and MBO. Children of persons in what are called “crucial professions”, such as those in health care, the police, public transport and the fire brigade, are still being taught so that their parents or caregivers can continue to work. Everyone is called upon to keep 1.5 meters apart. The next day, some rules were relaxed. For example, take-away restaurants may remain open, as can coffee shops, as long as one leaves after picking up the order. The aim of the policy is stated to be to obtain group immunity.

    Exhibit 9: Speech Prime Minister March 16, 2020

12. On March 17, 2020, the OMT will issue a follow-up advice with further recommendations. There are currently 6,507 reported deaths with COVID-19 in Europe. The epidemiological developments suggest that the numbers of infected persons and hospital admissions will increase further. In that case, healthcare would come under pressure. Insufficient testing capacity is available so that testing is only selective among healthcare personnel. According to the OMT, testing patients with an increased risk of a serious course has no added value for the assessment of follow-up treatment. The OMT further advises to collect daily data from the hospital managements about the numbers of persons admitted to a hospital or an intensive care unit (IC) with COVID-19, as well as the numbers of discharged and deceased patients.

    Production 10: OMT advice March 17, 2020

13. In an OMT opinion of 23 March 2020, additions to the previous measures will follow and further measures will be advised again. The OMT advises, among other things, to cancel all events until 1 June 2020, regardless of the number of participants. Based on this advice, the Prime Minister announced further measures calling this situation an intelligent lockdown. The basis for these measures has not yet been laid down in emergency regulations. The following measures are implemented:
14. Events with a permit and notification obligation will be prohibited until 1 June 2020. The measures mentioned under 2 to 7 will be reconsidered no later than 6 April 2020.
15. All other meetings are prohibited, with a few exceptions:
    a. Legally required meetings (max. 100 people), such as meetings of the city council as well as the States General
    b. meetings necessary for the continuation of the daily activities of institutions, companies and other organizations (max. 100 persons);
    c. funerals and wedding ceremonies (max. 30 people);
    d. meetings of a religious or philosophical nature (max. 30 persons).
    At these meetings, they may only continue if all hygiene measures to combat the corona virus are observed and 1.5 meters apart can be kept.
16. Casinos, arcades and similar institutions are closed. Cases where contact professions aimed at external care are carried out, such as hairdressing and nail salons, must also close their doors.
17. The practice of all types of contact professions is prohibited, as long as it is not possible to keep a distance of 1.5 m from the customer. You can think of masseurs,

hairdressers, nail stylists, escort services and driving instructors. An exception is made for the treatment of (para) medical professions, provided that there is an individual medical indication for this and the practitioner can comply with all hygiene requirements.

18. Shops, markets must be closed and public transport terminated if there is little or no compliance with the applicable hygiene measures and the 1.5 m distance.
19. Locations such as holiday parks, camping sites, parks, nature reserves and beaches must be closed if these locations do not or insufficiently follow the applicable hygiene measures and the 1.5 m distance or this is likely to occur.
20. Group formation (accidentally or otherwise) in public space is prohibited. The cabinet understands a group of three or more people who do not keep a distance of 1.5 m. There is no group formation when it comes to persons who form a joint household. There is also no group formation when children up to the age of 12 play together under the supervision of one or more parents or guardians. Provided that the parents and / or guardians keep 1.5 m distance from each other.

Production 11: advice OMT March 23, 2020
Production 12: news item additional measures March 23, 2020
Production 13: minister's answers to parliamentary questions March 30, 2020

21. As a result of the announced measures, the security regions are scaling up to GRIP 4. Pursuant to Article 39 of the Security Regions Act, various powers of mayors will rest exclusively with the chairman of the Security Regions. Following on from this, the Emergency Ordinance COVID-19 was announced per security region on March 17, 2020.

Production 14: letter Safety region March 24, 2020
Production 15: example emergency regulation March 17, 2020 safety regions

15. On April 6, 2020, a bill with temporary provisions was submitted to the House of Representatives. The bill establishes temporary provisions to inactivate preliminary procedures under delegated legislation related to COVID-19. This means that advice and consultation plans prescribed by general administrative measures and ministerial regulations can be skipped. Members of the States General or one of the Houses are also deprived of the opportunity to demand that certain subjects be regulated by law. Furthermore, the possibility has been created to conduct legal proceedings by means of telecommunications connections.

Exhibit 16: bill and advice Council of State April 6, 2020

16. The OMT will issue a follow-up advice on 6 April 2020. The purpose of this advice is to limit further spread of the virus and reduce the pressure on the ICs. There would have been a flattening of new hospital admissions. The peak of new IC recordings seems to have been reached. Due to the delayed outflow, the peak of the total utilization of the ICs has not yet been reached. The reporting delay also causes uncertainty in the calculation of the reproduction number (R0). The OMT expects that the measures cannot be scaled for the time being. The transition strategy is based on three pillars:

♣ Determining an acceptable burden on the ICs and hospital care over a longer period;
♣ Optimizing the recognition of coronavirus infections from contact detection and contact notification;
♣ Protection of vulnerable groups in society.

17. The OMT advises to focus the control policy on limiting the number of people who fall ill, have to be admitted to hospital and ICUs and die from the virus. To do this, the R0 number must remain below 1. The OMT states that the measures can be scaled if:

    ♣ The R0, measured by hospital admissions, has long been less than 1;
    Zorg The care system, including ICs, is no longer over-requested and has the chance to recover;
    ♣ There is sufficient test capacity;
    Voldoende Sufficient capacity and possibilities for source and contact tracing are available, including the capacity to analyze large data flows also at regional level;
    Meet Measuring instruments are available that can quickly pick up on the effects of the transition, such as a sufficiently sensitive virological sentinel surveillance.

18. Furthermore, the OMT advises to investigate the possibilities for supporting source and contact tracing using mobile applications as soon as possible. The OMT considers this necessary for the future phase. According to the OMT, the 1.5-meter rule remains important and can only be scaled down if the virus circulation is certainly strongly suppressed and rapid recognition of illnesses and their contacts can be guaranteed.

    Production 17: advice OMT April 6, 2020

19. In an analysis, the Dutch Healthcare Authority warns that a reservoir will be created of more than 361,000 patients in regular hospital care who have not been treated since the start of the measures.

    Production 18: Analysis of the consequences of the corona crisis for regular care

20. On 20 April 2020, the OMT will produce a follow-up advice for an acceptable burden for care in which both COVID-19 patients and regular care can be provided. In addition, the aim is to protect vulnerable people in society and to keep an eye on and insight into the development of the spread of the virus. According to the OMT, the effective reproduction number (Reff) has been less than 1 since 16 March. This would be an indicator that the measures are working. However, according to the OMT, a reliable estimate cannot be given due to the reporting delay in the registrations. The OMT expects that the IC occupancy of 700 COVID-19 beds will come into view around 1 May. The OMT recommends establishing the goals of the transition strategy as follows:

    ♣ Prevent the virus from spreading among vulnerable people to limit the number of seriously ill people;

♣ Prevent the healthcare system from being overloaded. IC occupancy should be reduced to 700 beds by May 1, 2020;
Zoveel Limit as much as possible the harmful effects of measures on the population and society;
♣ Maintains broad support among the population.

21. The OMT emphasizes that there is considerable uncertainty about the effect of the measures to prevent dissemination. Knowledge that is necessary for a scientific basis for interventions is largely lacking. It is not possible to work out a strategy based on scientific evidence to re-open society without this leading to a possible uncontrollable spread of the virus.

    Production 19: OMT advice 20 April 2020

22. In a letter of 21 April 2020, the House was informed about the state of affairs. The minister concludes that the measures are effective and the figures from the ICs are hopeful. According to the minister, the Netherlands is only at the beginning of the next phase in the fight against the virus. The virus could only continue to fall if measures and advice are followed. The minister also reports that with 3,206 beds, sufficient care capacity has been created nationally outside the hospital for vulnerable patients. In addition, 3,832 beds are available that can be used in the short term, so that a total capacity of 7,038 beds is available.
23. In a press conference of April 21, 2020, it was announced that the measures, which would initially expire on April 28, 2020, will be extended until May 19, 2020. The measures regarding events will be extended until September 1, 2020. In this press conference, the minister emphasizes - President that after scaling the measures, the situation will not be restored before the measures were taken. There will be talk of "the new normal". Health remains the all-determining criterion. The development of an exit strategy mainly takes into account the future possibility of the virus spreading or reviving. The success of this strategy is partly dependent on a preventive vaccine that is expected to take some time to become available.

    Exhibit 20: Letter safety region to municipalities April 22, 2020
    Exhibit 21: Model regulation COVID-19 April 24, 2020

24. It is remarkable that efforts are being made to research and develop a vaccine. After all, a vaccine is a prerequisite for getting the virus out of the world. € 50 million has been made available for this purpose to the Coalition on Epidemic Preparedness. However, a vaccine has never solved a crisis. It is a preparation and by definition cannot be used during an epidemic.
25. Also notable is the emphasis on research into the possibilities of using mobile applications to support source and contact research. The development of a COVID-19 app follows a recommendation from the European Commission. Communication with the public does not mention this. In a manual, the European Commission provides a description with which such an app must comply. The minister gives a step-by-step plan to arrive at a working app.
26. After a call in an opinion piece in the NRC of April 7, 2020 “Test for antibodies, that is now essential” by Jaap Goudsmit, professor of epidemiologist and infectious diseases at Harvard University, SP MPs are asking parliamentary questions whether

a representative sample will be conducted for a basis for the policy pursued. The minister replied without further explanation that a broader sample was introduced in the Pienter-Covid study.

Production 22: Parliamentary questions 6 May 2020 Hijink and Van Gerven

27. On 1 May 2020, after the Council of Ministers, the Prime Minister will hold a press conference in which it is made clear that nothing can be said with certainty regarding the scaling-down of measures. When asked at what amount of occupied IC beds the measures can be alleviated, Rutte replies that this is not addressed. According to him, the entire care is now being looked at. It should also be kept in mind that the reproduction figure R0 remains below 1. According to the Prime Minister, no decisions can be made about opening up sectors until all figures are available on how the virus is 'raging through society'. At present, the reproduction figure is below 1. The Prime Minister is also surprised by the criticism that the OMT operates as a closed bulwark. According to him, the consultation of experts must take place in confidence in order to arrive at a weighted assessment. Not enough is known about the virus. A perspective of openings can only be given if it is very clear what the distribution is like and the figures are not so great that we can anticipate that already. We are now only looking at the possibility if, for example, it continues to go well for two weeks that a plan is made to reopen in blocks for four or six weeks. "As soon as the figures give reason to give an honest perspective, that will also happen," says Rutte. Not enough is known about the virus. A perspective of openings can only be given if it is very clear what the distribution is like and the figures are not so great that we can anticipate that already. We are now only looking at the possibility if, for example, it continues to go well for two weeks that a plan is made to reopen in blocks for four or six weeks. "As soon as the figures give reason to give an honest perspective, that will also happen," says Rutte. Not enough is known about the virus. A perspective of openings can only be given if it is very clear what the distribution is like and the figures are not so great that we can anticipate that already. We are now only looking at the possibility if, for example, it continues to go well for two weeks that a plan is made to reopen in blocks for four or six weeks. "As soon as the figures give reason to give an honest perspective, that will also happen," says Rutte. We are now only looking at the possibility if, for example, it continues to go well for two weeks that a plan is made to reopen in blocks for four or six weeks. "As soon as the figures give reason to give an honest perspective, that will also happen," says Rutte. We are now only looking at the possibility if, for example, it continues to go well for two weeks that a plan is made to reopen in blocks for four or six weeks. "As soon as the figures give reason to give an honest perspective, that will also happen," says Rutte.
28. When asked which figures give cause to provide a perspective, Rutte replies that the spread should really be below 1.

Exhibit 23: literal text of the press conference of the Prime Minister on 1 May 2020

29. The OMT will produce follow-up advice on 4 May 2020. According to the OMT, the current situation is that the reproduction number R0 has been less than 1 since March 16, 2020. According to an estimate, the number of people with an active infection in the Netherlands on April 13, 2020 was around 25,000. The prognosis for

the ICs is that on May 1, 2020, just under 700 COVID-19 patients have been admitted. This meets the condition for relaxation. The OMT expects fewer than 500 IC beds to be occupied by COVID-19 patients by May 11, 2020. A general relaxation of the measures can only take effect - apart from the extra hygiene and a meter and a half rule - with a low incidence of the infections. According to the OMT, this is subject to the condition that there is sufficient testing and purchasing capacity and a maximally scaled-up public health infrastructure for source and contact tracing. As soon as it is technically feasible, virological surveillance should be supplemented with serological surveillance in order to obtain a picture of the acquired immunity. The OMT does not advise positively or negatively about facial masks, since there is no clear picture of the usefulness.

Production 24: advice OMT 4 May 2020

30. Following the OMT advice, the minister will send a letter to the House on 6 May 2020 with an update on the state of affairs. According to the minister, good results have been achieved since March and new infections and the number of hospital and ICU admissions are decreasing. According to the minister, we are only at the beginning of the next phase in combating the outbreak, in which work is progressively progressed to the control phase. According to the minister, this must be done in a responsible manner, because the chance of a second outbreak is real if action is not taken carefully. According to the minister, this is a joint search for a responsible path until we have a well-functioning vaccine.
31. In the control phase, three anchor points are maintained, namely ensuring that care can cope, protecting vulnerable people in society and gaining more insight and insight into the spread of the virus. In this transition phase, to be well prepared for the next phase of “the new normal”, the minister believes that clear frameworks from the government and good agreements with society are necessary. Only then is it possible, according to the minister, to phase out the measures taken step by step and to offer society perspective and to restart economic activities as much as possible.
32. As a first step towards the “new normal”, some sectors will have the opportunity to reopen, subject to numerous restrictions. For example, a number of contact professions can get back to work as long as work is done by appointment and a distance of one and a half meters can be guaranteed. Swimming pools may be partially open, but showers must remain closed. The conditions for these 'openings' are that:

♣ The RIVM guidelines have been implemented;
♣ Strict hygiene measures are applied;
Contact The contact professions must work according to the assessment framework; that has been established by the OMT;
Contact The contact professions mentioned in the assessment framework work on the basis of reservation and triage; and
♣ Vulnerable groups are discouraged from using contact professions. This does not apply to necessary contacts with medical care professionals.

33. Furthermore, education is again being opened slowly, also with due observance of numerous conditions. Public transport can be used again provided that a mask is worn and that it is kept at a sufficient distance.
34. The test policy will be adjusted in such a way that from now on everyone with flu symptoms can be tested. Source and contact research will also take place again. Regular care will also be restarted slowly.

Production 25: letter of 6 May 2020 from the Minister of Medical Care to the Chamber

THE PROVISION OF INFORMATION ABOUT THE COVID-19 PANDEMIC

The provision of information about the COVID-19 pandemic

35. The media has claimed a special role in this crisis. With unilateral reporting without a relevant context, an unprecedented fear campaign has been conducted across the entire spectrum. Together with the police, the population has been brought into a state that can be described as anxiety psychosis.
36. As the "fourth power", the media play an essential role in a democratic constitutional state. They act as public watchdogs and help citizens to inform themselves and to strengthen their position, by increasing their understanding of the current political and social landscape and by promoting their conscious participation in public life. The right to provide and obtain information is part of the basic democratic core values that underpin the European Union.
37. The way in which information is provided and reported by the mainstream media, but also by other sources of digital information such as YouTube, Facebook, WhatsApp, Google, Twitter and influencers, has played a crucial role in the course of the COVID-19 crisis. The provision of information is characterized by an unprecedented monopolisation of government positions in which dissent has been suppressed with aggressive disinformation campaigns and censorship. Journalism has refrained from critical questions about the policy pursued and has presented the public with an unprecedented fear campaign in which the COVID-19 virus has been portrayed as a killer virus. The media has given up its role as a watchdog for democracy.
38. This unprecedented propaganda campaign takes place under strict supervision of the WHO, which has developed a Risk Communication and Community Engagement (RCCE) for this purpose. A manual and tools are provided in the RCCE Action Plan Guidance. The starting point of this media strategy is a scary collaboration between governments and the entire mainstream media, but also reporting via influencers. Parliamentary questions have shown that the influencers deployed have received significant payments for their services. Combating 'misinformation' is an important part of this strategy (p.5):

   “Set up and implement a rumor tracking system to closely watch misinformation and report to relevant partners / sectors. Make sure to respond to rumors and misinformation with evidence-based guidance so that all rumors can be effectively

refuted. Adapt materials, messages and methodologies accordingly with help from the relevant technical group. ”

Exhibit **26:** WHO RCCE Action Plan Guidance

39. Part of the RCCE is the provision of information by WHO to be communicated to the public in a monopolized manner. In the event of a serious emergency, it is conceivable that the independent provision of information will be limited temporarily in order to enable tight communication with the public. During the COVID-19 crisis, however, this strategy led to a situation in which there was no longer any room for critical comments or questions about the policy pursued. Even internationally recognized scientists in relevant fields of research are hardly offered a platform to express dissent from WHO. Scientists who have expressed themselves through channels such as YouTube or other platforms have been confronted with aggressive public diffusion campaigns. This has led to a culture of fear among scientists. On digital media platforms such as YouTube, WhatsApp, but also on search engines such as Google, deviating statements from the WHO have been removed or can hardly be found. There is a symbiosis between government and media, as a result of which the controlling task has given way to an aggressively propagated state vision.
40. The consequence is the absence of an open debate about the consequences of COVID-19 and the measures taken. The public therefore has little access to diversified information that contributes to a balanced opinion. Instead, the public is impregnated with one-sided information and statistics without context.
41. This one-sided information landscape also has consequences for this procedure in that it is not easy to gather relevant and independent information about the situation in the Netherlands. Outside the Netherlands, especially in Germany, alternative sources of information have emerged that are increasingly taking over from the mainstream media and which now enjoy millions of people. These new media are an important source of inaccessible information and have thus contributed significantly to the investigation underlying this subpoena.

REGULATIONS

Regulations

1. A brief description will first be given below of the legal powers structure as currently used in the fight against the COVID-19 virus.

- The basis for the measures in force can be found in the Public Health Act (Wpg). CoV-19 was designated by ministerial decree of January 28, 2020 as belonging to group A, as referred to in Article 1, part e, of the Public Health Act. In *group A* are located further *:* Middle East respiratory syndrome coronavirus (MERS-CoV), smallpox, polio, *severe acute respiratory syndrome* (SARS), viral haemorrhagic fever;

- The chairman of the security region is responsible for combating an epidemic of an infectious disease belonging to group A, or a direct threat thereof, and is then exclusively authorized to apply Article 34, fourth paragraph for the purpose of this control , 47 , 51 , 54 , 55 or 56 . This concerns, among other things, the powers to

impose a periodic penalty payment if insulation is necessary. This authority also offers the possibility to check buildings, means of transport or goods for the presence of contaminants, to disinfect them, to close them or to prohibit their use and to enforce periodic penalty payments.

- Article 7, paragraph 1 of the Wpg provides that the Minister of Health, Welfare and Sport (the Minister) is in charge of combating an infectious disease belonging to group A. The minister has the power to instruct the chairman of the security region how to combat to undertake, including ordering the application of the aforementioned measures.

- The minister is assisted by the Center for Infectious Diseases (CIb) of RIVM. Within this center is the National Coordination for Infectious Disease Control (LCI). In the event of an outbreak of infectious diseases, he is responsible for providing substantive advice to the government and professionals on how best to combat the outbreak and for the implementation of national policy. To this end, an Outbreak Management Team (OMT) is formed that includes (medical) professionals. Before the recommendations of the OMT are applied, the minister must first consult the Administrative Coordination Consultation (BAO). The BAO is chaired by the Director General of Public Health of the Ministry. In this report, officials of the ministries involved, representatives of the Association of Dutch Municipalities (VNG), GGD, GHOR Netherlands, the Health Care and Youth Inspectorate (IGJ), the Dutch Food and Consumer Product Safety Authority (NVWA), the director of CJb and the secretary of the OMT session. The minister ultimately instructs the chairmen of the security regions to implement the measures he has decided to take.

- The presidents of the security regions must convert the measures into binding decisions. In doing so, use is made of the emergency powers with regard to public order which the Municipalities Act grants to mayors, including articles 175 and 176. These powers will be vested in the chairman of the security regions through a GRIP 4 situation under article 39 of the Security Regions Act. to exclaim. This is only possible if it is considered that there is a (imminent) disaster or crisis of more than local significance in which the life and health of persons is seriously damaged or threatened. According to Article 1 WVR, a crisis is a *situation in which a vital interest of society is harmed or threatened* .

- The minister has followed this path, but does not himself have any regulatory powers. The emergency ordinance power of Article 175 of the Municipalities Act gives the chairman of the security regions the power to deviate from regulations other than those laid down by the Constitution. This means that the President has no authority to limit citizens' fundamental rights. Acting in violation of the provisions laid down by emergency ordinance is punishable under Article 443 Sr. The chairmen have no discretion and must follow the instructions of the minister.

- The emergency regulations issued by the security regions on the basis of which the current measures are implemented are based on the Model Emergency Regulation COVID-19 of 6 May 2020. Although the Minister has submitted a bill under the Act of extraordinary powers to provide specific emergency provisions with a legal basis. , it has not been in operation to date. This Act offers the possibility to activate separate emergency provisions without declaring a general or limited emergency. On the

basis of this power, it is possible to limit the fundamental rights laid down in Article 103 paragraph 2 of the Constitution if the conditions set for this are met.

Exhibit **27:** Model Emergency Ordinance COVID-19 of April 24, 2020

- The emergency ordinances (hereinafter: the emergency ordinance) issued by the presidents of the security regions contain the following measures:

Chapter 2. Measures

Article 2.1. Prohibited meetings

1. It is forbidden to have meetings take place, to have them organized or to have them organized, or to participate in such meetings.

2. This prohibition does not apply to the following meetings, provided those present keep at least 1.5 meters away from the nearest person at all times:

a. legally required meetings, such as meetings of city councils, provided that no more than a hundred people are present;

b. meetings necessary for the continuation of the daily activities of institutions, companies and other organizations, provided that no more than a hundred people are present and measures are taken to ensure a 1.5-meter distance between those present;

c. funerals and wedding ceremonies, provided that no more than thirty people are present;

d. meetings at which the right to freely profess his religion or belief as referred to in Article 6 of the Constitution is exercised, provided that no more than thirty persons are present;

e. meetings for activities as referred to in Article 2.7, second paragraph, and Article 2.8, second paragraph;

f. organized and supervised by sports associations or professionals outside sports and movement of persons up to the age of 18;

g. outside sports and exercise of persons aged 19 years and older;

h. visits to shops and libraries, provided that measures are taken to ensure a distance of 1.5 meters between those present;

i. visit to zoos, nature parks and amusement parks, provided that, in the opinion of the chairman, a plan submitted by the manager shows that measures have been

taken to guarantee a 1.5-meter distance between those present and the burden on the mobility system and in particular public transport remains acceptable;

j. outdoor activities for persons up to and including the age of 18, organized and supervised by scouting, culture, art and other youth associations or professionals.

3. It is forbidden until 1 September 2020 to allow events to take place or to arise, or to participate in events.

Article 2.2. Prohibition to observe safe distance

1. It is forbidden to be in a group of three or more people in the public space without keeping a distance of at least 1.5 meters from the nearest person in that group and other persons.

2. This prohibition does not apply to:

a. persons who form a joint household;

b. children up to 12 years of age who:

i. play together under the supervision of one or more parents or guardians who observe a distance of 1.5 meters among themselves;

ii. organized outside sports or exercise as referred to in Article 2.1 (2) (f);

iii. attend organized activities as referred to in Article 2.1 (2) (j).

Article 2.3. Prohibited opening of establishments

1. It is prohibited to keep any of the following establishments open to the public:

a. food and beverage outlets;

b. sports and fitness facilities;

c. saunas;

d. sex establishments;

e. coffee shops;

f. establishments where slot machines as referred to in the Games of Chance Act can be played.

2. The prohibitions, referred to in the first paragraph, parts a and e, do not apply if there is only the sale, delivery or supply of food, drinks, soft drugs or products for use other than on the spot, provided that the operator has measures in place. to ensure a distance of 1.5 meters between those present and to limit the duration of their stay in the institution as much as possible.

3. The prohibition, referred to in the first paragraph, under b, does not apply to:

a. establishments where sports or exercise as referred to in Article 2.1 (2) (f) and (g) are made possible outside, provided that the manager has taken measures to guarantee a distance of 1.5 meters between those present;

b. institutions for top sport, provided that the manager has taken measures to guarantee a 1.5-meter distance between those present;

c. swimming facilities for sports and exercise in water, provided that the manager has taken measures to ensure a 1.5-meter distance between those present and keeps the communal wash-shower facilities closed.

Article 2.4. Contact professions

1. Practitioners of contact professions or the managers of establishments where contact professions are carried out must take measures to guarantee a distance of 1.5 meters between customers or visitors.

2. Sex workers are prohibited from practicing their profession.

Article 2.5. Prohibited areas and locations

1. It is forbidden to be in areas and locations designated by the chairman. The chairman can limit the prohibition to certain periods.

2. This prohibition does not apply to:

residents of dwellings located in the area or location;

b. persons who perform necessary activities in the area or location.

Article 2.5a. Sanitation

It is forbidden to keep sanitary facilities in the form of communal toilet, washing and shower facilities at recreation parks, holiday parks, camping areas, small-scale camping fields, parks, nature reserves, marinas and beaches.

Article 2.6. Termination of public transport facility

The chairman may, in consultation with the carrier, terminate or limit public transport facilities if:

a. these facilities do not or do not sufficiently meet the requirement to implement the restrictive measures with regard to keeping a distance of 1.5 meters between all persons present in the facility; and

b. the termination of this facility does not unnecessarily impede the transport of persons working in vital processes or transport that is otherwise necessary for the mobility of the Netherlands.

Article 2.7. Prohibited opening of educational institutions

1. It is prohibited to carry out educational activities in educational institutions.

2. This prohibition does not apply to:

a. schools for special education, for special primary education, locations for primary education linked to asylum seekers' centers and locations for primary education exclusively for newcomers;

b. primary schools where pupils can attend school for at least half of the regular teaching time;

c. the organization of distance education, whereby students and pupils receive education in the home situation via a (digital) medium;

d. the care of children of parents who work in crucial professions or for vital processes;

e. the organization of tests and examinations provided that careful measures have been taken to limit the risk of contamination;

f. small-scale organized care or guidance for students for whom customization is required due to special problems or difficult home situations; and

g. schools at an open or closed residential institution.

3. Educational institutions cooperate in opening up for the purpose of reception or guidance as referred to in the second paragraph, parts d and f.

Article 2.8. Childcare is prohibited

1. It is forbidden to offer childcare in childcare or as a childminder.

2. This prohibition does not apply to:

a. the care of children of parents who work in crucial professions or for vital processes;

b. the care of children from 0 to 4 years old who require customization due to special problems or difficult home situations;

c. childcare for children aged 0 to 4 in childcare and childcare facilities for children aged 0 to 12 with a childminder;

d. childcare for children aged 4 to 12 in childcare centers who are also allowed to attend school on the same day in accordance with Article 2.7, second paragraph, under a or b.

3. Organizations for childcare participate in opening up for childcare as referred to in the second paragraph. Cooperation does not have to be provided if the professional-child ratio within the meaning of the Childcare Act is exceeded, because childcare must be provided for children for whom childcare does not have to provide contracted childcare

Article 2.9. Prohibited access to nursing homes and housing for the elderly

It is forbidden to be present in:

a. an institution that provides care as referred to in Article 3.1.1, first paragraph, part a, of the Long-Term Care Act to persons who are entitled to it because of a somatic or psychogeriatric disorder or disability;

b. a living situation in which at least three residents reside because of a somatic or psychogeriatric disorder or disability and receive care as referred to in Article 3.1.1 of the Long-Term Care Act.

Chapter 3. Exceptions

Article 3.1. Exceptions

1. The prohibitions in this Regulation do not apply to:

a) the emergency services and supervisors involved;

b. activities necessary for the progress of vital processes;

c. (categories of) cases to be determined by the chairman.

2. The chairman can attach rules and restrictions to an exemption or exemption on the basis of the first paragraph, under c. It is prohibited to act in violation of such regulations and restrictions .

ASSESSMENT FRAMEWORK FOR VIOLATIONS OF THE ECHR AND FUNDAMENTAL RIGHTS

51. The measures contained in the Emergency Ordinance constitute far-reaching restrictions on the exercise of numerous freedoms and rights enshrined in human rights treaties and the Constitution. For example, church services are limited in terms of numbers, but the right to association, meeting and demonstration is also severely limited. Here the question will be answered which criteria must be met to deviate from these fundamental rights in an exceptional situation.
52. According to the presidents of the security regions, the measures also apply in home situations. Practice has shown that enforcement against meetings in the private environment is actually enforced. This is an outright violation of the constitutionally protected right to privacy and house law. Other fundamental rights affected by the emergency ordinances are the undisturbed enjoyment of his property and the right to education guaranteed, inter alia, in the First Protocol to the ECHR of 20 March 1952. The right protected in Article 12 of the ECHR and the European Charter to work and to exercise a liberal profession are severely limited by the measures.
53. In view of the unclear drafting of the provisions in the Regulations, there has also been a violation of the principle of legality laid down in Article 16 of the Constitution and Article 7 of the ECHR.
54. The problem is that the restrictions are currently regulated by emergency regulations issued by the presidents of the security regions. Article 176 of the Municipalities Act stipulates that use may only be made of derogations from regulations other than those laid down by the Constitution. Article 103 paragraph 2 of the Constitution determines which fundamental rights provisions can be deviated from in an exceptional situation. For example, the right to association and demonstration may not be waived. The Constitution requires a fully elaborated basis for this from the States General. Certainly now that the measures take longer, these restrictions should be regulated by emergency law on the basis of a formal law. This possibility is offered by the Act on extraordinary powers of civil authority (Wbbbg).
55. In certain situations, it may be justifiable to give more weight to the duty to protect nationals in the event of a conflict of fundamental rights. This is a trade-off that can only be made in a specific disaster situation where the lives and health of many people have been seriously damaged or threatened. The European Court of Human Rights also offers some latitude:
    “It falls in the first place to each Contracting State, with its responsibility for 'the life of [its] nation', to determine whether that life is threatened by a 'public emergency' and, if so, how far it is necessary to go in attempting to overcome the emergency. By reason of their direct and continuous contact with the pressing needs of the moment, the national authorities are in principle in a better position than the international judge to decide both on the presence of such an emergency and on the nature and

scope of derogations necessary to avert it. In this matter Article 15 § 1 (…) leaves those authorities a wide margin of appreciation. ”

56. However, the ECtHR does set clear limits to this margin of appreciation. Any curtailment of the rights guaranteed by the treaty under Article 15 of the ECHR must have a clear basis in domestic law in order to protect against arbitrariness and must be strictly necessary to fighting against the public emergency. The ECtHR also has the following limitations, among others:
57. The main purpose of the state of emergency regime (or alike) is to contain the development of the crisis and return, as quickly as possible, to the normality.
58. The principle of necessity requires that emergency measures must be capable of achieving their purpose with minimal alteration of normal rules and procedures of democratic decision-making.
59. The implementation of measures limiting fundamental rights can therefore only take place in very exceptional circumstances where this is strictly necessary to maintain external or internal security. Exceptional circumstances exist when factual events occur that necessitate the application of necessary powers due to a lack of legal powers.
60. In order to determine whether the measures in force can withstand the test of the ECtHR, the following questions must be answered:

♣ How does decision-making take place?
Is What is the purpose of the measures?
♣ Are the measures suitable for achieving the goal?
♣ Subsidiarity: Are there less drastic means available to achieve this goal?
De Are the measures proportional, is the remedy no worse than the disease?

59. Before discussing these criteria, a document will be discussed that was published on 8 May 2020 by an employee of the German Bundesministerium des Innern department Krisenmanagement und Bevolkerungsschutz (BMI).

AUSWERTUNGSBERICHT DES REFERATS KM4 (BMI)

Auswertungsbericht des Referats KM4 (BMI)

60. On May 9, 2020, German society was shocked by a piece by Stephan Kohn, a whistleblower working as an analyst at BMI. Kohn is a senior civil servant reporting to the Secretary of State. He studied political science and business sciences, and worked for a long time at the ministry and as an adviser to the Mayor of Berlin. In 2018, he was a candidate for leadership of the SPD.
61. In a 93-page summary - the original analysis is 193 pages - Kohn comes to devastating conclusions about German policy in the fight against COVID-19. The analysis shows that soon after the measures were taken, BMI knew that the virus is not an actual threat and no more dangerous than the other 150 viruses that circulate in the population every day. The continuing measures are of no use according to the analysis. The hard conclusion is that COVID-19 was a “false alarm”. According to Kohn, the basis for the decisions taken is missing. Furthermore, Kohn concludes that the Federal Government was insufficiently prepared and therefore responded

inadequately. Kohn fears that politics is now more concerned with self-preservation than with protecting the population.

62. An e-mail message shows that ten doctors and scientists as co-authors contributed to the analysis. These are:

♣ The microbiologist and infectious epidemiologist Sucharit Bhakdi is professor emeritus of the Johannes Gutenberg-Universität in Mainz, where he headed the Instituts für Medizinische Mikrobiologie und Hygiene from 1991 to 2012;
Ina Karina Reiss is a dermatologist and wife of Sucharit Bhakdi;
♣ Economic scientist and sociologist Gunnar Heinsohn is professor emeritus of social pedagogy at the University of Bremen;
Immun The immunotoxicologist Stefan W. Hockertz was affiliated with the University of Hamburg and director of the Institut für Experimentelle Pharmakologie und Toxikologie at the University Hospital Eppendorf until he switched to business in 2004;
♣ Peter Schirmacher has been Professor of Pathology and Director of the Institut für Pathologie, Universitätsklinik Heidelberg since 2004;
Andreas Söhnnichsen is a German physician and scientist. From 2019 he is chairman of the Deutschen Netzwerks Evidenzbasierte Medizin (DNEbM);
Ald Harald Walach is a clinical psychologist, science philosopher and historian. From 2010 to 2016, he led the Institut für transkulturelle Gesundheitswissenschaften IntraG at the Europa Universität Viadrina in Frankfurt (Oder);
Til The doctor Til Uebel is co-author of the appeal of German doctors, which calls for a change in the policy pursued in the fight against COVID-19;
Ter Gunter Frank is a physician and leader of the Heidelberger Präventions- und Gesundheitsnetzes and board member of the Food Safety Authority (EFSA). He is also active as a publicist for, among others, the Achse des Guten.

63. The BMI immediately responds with a press release stating that this is a private opinion of an official and this opinion is not shared by the BMI. According to the ministry, the measures are proportional and reference is made to other countries where much stricter measure regimes are in force. The measures are said to be effective, which is evident from the low mortality rates. The content of the BMI does not respond to Kohn's criticism. The Federal Chancellor also refuses to give a substantive response to questions from the Bundestag.

Exhibit 27: press release May 10, 2020

64. Kohn was immediately suspended from action. About his motive, he says that his cry for help has not been heard by the ministry. The co-authors confirm Kohn's lecture and warn that measures should never be more harmful than the disease itself. In a survey, 178 other scientists confirmed that they support Kohn's analysis. The ministry has not responded to substantive questions.

Exhibit 28: Auswertungsbericht des Referats KM4 (BMI) Exhibit 29: Article Nordkurie: “Seehofer sets Corona-Kritiker kalt Exhibit 30: NTV:“ Das steckt hinter dem Corona-Leak ”

65. BMI's defense does not make Kohn's analysis any less important. Kohn is a senior civil servant whose job is to produce analyzes. The document gives a good impression of the information available within the ministry. In addition, it is not credible that in his spare time Kohn wrote a thorough analysis of 178 pages within a week. According to him, a whole team of colleagues co-wrote the official document. It is not incomprehensible that the analysis is extremely painful for the ministry.
66. This analysis is an interesting source of information because it gives a glimpse of what is going on behind the scenes, albeit in Germany. Unfortunately, the Netherlands stubbornly refuses to release any information regarding the development of the policy surrounding COVID-19. The cabinet has inactivated the Government Information (Public Access) Act. It is therefore not possible to fall back on administrative information in this summons. However, the analysis of the German situation will largely apply to the Netherlands. After all, according to the Prime Minister, there is intensive consultation between the Netherlands and Germany. In the following, Kohn's analysis will therefore regularly recur as a source.

INADEQUATE DECISION MAKING

Inleiding

67. The Prime Minister regularly holds press conferences on the state of affairs on the basis of the latest advice from the OMT. Except for a few details, these opinions are converted into decisions with far-reaching consequences. However, there are serious shortcomings in the quality of OMT's advice. This manner of decision-making cannot pass the test of good administration.

The policy has an open end

68. In a situation where the freedom and rights of millions of citizens are seriously curtailed, all efforts should be aimed at ending this situation as soon as possible. This is also a constant condition in the case law of the ECtHR. However, these efforts are not recognizable in the policy.
69. Characteristic for the statements by the Prime Minister is that no prospect is given when this disastrous situation can be ended. If you read the text of the press conferences, you will see that the announcements are filled with uncertainties and open ends. The motivation for these decisions is limited to the statement that the experts have looked at this very carefully and that there is really no possibility of acting differently. There is no horizon with clear criteria that must be met.
70. Insofar as criteria are mentioned, they are also not permanent. Criteria are changed, supplemented or adjusted without further explanation for successive recommendations. The Dutch population has long been told that the reproduction number R0 should be below 1 for a longer period. In retrospect, it turned out that this number was already under 1 on March 16. Nevertheless, the measures have not been lifted. After that, the number of occupied IC beds had to drop below 700 before the measures could be lifted. At present, that number is below 270, but there is no prospect of ending an unsustainable situation that is destroying the Dutch economy at a terrifying rate.
71. Completely unrealistic criteria are also set that have no place in a situation that needs to be ended urgently. The OMT repeatedly mentions that an app must first be created. In addition, the minister and the OMT have repeatedly reported that a

vaccine must be available before there can be any normality. These are criteria that allow this situation to continue indefinitely.

72. As more and more entrepreneurs slide into the abyss, unemployment figures explode and social damage grows, policymakers envision a society with a “new normal”. A society where people should fear each other because everyone can be a source of contamination. A society in which entrepreneurs can only serve a fraction of the number of customers that is necessary to be profitable. A society with schools that can only partially provide education. A society without cultural events and art. A society in which people are prosecuted because the prescribed distance to other people has not been carefully observed or because young people do what they do, namely spend time together on the street.
73. On closer inspection, the conclusion can only be that there is careless unsound and unmotivated decision-making based on flawed facts in which rational action seems to be the great absentee. There is no evidence of a balance of interests, proportionality or subsidiarity. A number of aspects will be discussed in more detail below.

OMT rules the country

A first essential flaw in decision-making is that there is a blind eye for the advice of the OMT. The OMT is a group of doctors and virologists without democratic credentials. Virologists can make predictions with models, but politics has a duty to make a balanced assessment of which expert advice forms part. A doctor or a virologist makes a completely different decision from his field than a policymaker should do. For example, a doctor would immediately prohibit the use of motorcycles as a means of transport. A policymaker must take into account the consequences of such a decision and weigh the effectiveness, proportionality and subsidiarity. A director cannot hide behind the opinion of experts in his decision-making.

Lack of transparency

A major problem is the lack of transparency of the opinions produced by the OMT. The models and data used by the OMT are kept secret. This means that decision-making is uncontrollable. Scientists strongly object to this lack of transparency. They want to check the results of the models used. According to them, there is no scientific basis for the advice. There are no footnotes in the opinions that provide a scientific basis. There is also criticism of the way in which the selection of experts for the OMT was made. The public cries of despair of science have so far been without effect. The scientists are amazed at the lack of discussion in the media about these shortcomings in decision-making.

Exhibit 31: article Nieuwsuur 8 May 2020, “Scientists criticize lack of openness in corona advice”
Exhibit 32: NRC Opinion 9 April 2020, “Use us to ward off the crisis”

Not science driven

74. The Prime Minister regularly states that his decisions are science driven, that they are based on the result of scientific results. According to Cees Hemeling, emeritus professor of communication science at the University of Amsterdam, science and political policy-making are two different worlds. Where politicians are looking for

quick answers, science is rarely clear. According to him, the current policy is based on advice from experts who may have academic degrees or university positions, but who are not scientists. Experts operate in a gray area between politics and science. For example, according to him, experts are not alarmed if the estimate of the number of deaths based on the models of Imperial College drops from 500,000 to 1,600 within a month.

Exhibit 33: de Volkskrant 'Don't abuse science for corona politics'

Lack of scientific debate
Not only is there no scientific debate due to the lack of transparency. More serious is that a debate has also been made impossible because the OMT has obtained a monopoly on opinion formation. Scientists who come out with justified questions about the policy pursued hardly get a stage in the mainstream media. To the extent that they do, they become the target of diffusion campaigns and public scorn. This is a direct result of the WHO's coordinated aggressive approach to misinformation. Dissenting opinions from the WHO views are defused with counter information. This approach has created an atmosphere of fear in which openly asking critical questions can lead to character murder. It is not incomprehensible that many scientists prefer to remain invisible.

Doubts reliability advice

75. Furthermore, it appears that the OMT's estimates are based on models with great uncertainties, which means that it is not possible to determine the magnitude of the problem or whether the measures are useful or necessary at all. Important in this regard are the estimates by Neil Ferguson of Imperial College London that launched the draconian measures in many countries. Armageddon was predicted by Ferguson if governments were not to take far-reaching measures quickly. For example, the death toll in the United Kingdom would rise to 500,000 and the United States had to count on more than 2.3 million victims. Shortly later, Ferguson corrected his estimates. He adjusted the number of deaths for the UK to 20. 000 until the end of the year, half of which would have died before the end of the year without COVID-19. Ferguson has since left Imperial College.
76. It is also striking that nowhere in the advice can be found what would happen without these measures. How many more deaths are to be expected as a result of COVID-19 if the measures are terminated? Which infection fatality rate (IFR) is assumed by the OMT? Nobody knows. The advice of April 20, 2020 does not matter:

"There is still much uncertainty about the characteristics of the coronavirus and the effect of the measures to prevent spread. Knowledge that is necessary for a scientific substantiation of the interventions is largely lacking. It is not possible to work out a strategy based on scientific evidence to reopen society without this leading to a potentially uncontrollable spread of the virus. "

77. In fact, this passage states that the OMT is a pilot trying to fly a plane blindfolded with the responsible politicians as passengers. If there is no scientific evidence for the effectiveness of the measures taken, this is an argument to stop the measures from continuing. On the contrary. This communication makes it clear that there is no

justification for the measures. It's the world upside down. It is not the lifting of measures that requires scientific support, but the measures themselves.

78. This is all the more true now that in countries where little to no action has been taken, no disaster has occurred. The strongest evidence of the inaccuracy of the models used is Sweden. H. Sjödin of Umea University predicted that demand for IC capacity in Sweden would exceed available IC capacity by a factor of 30. This was followed by Uppsala University researcher J. Gardner with an even more dramatic prediction that the situation in Sweden would get completely out of hand in early May, with demand for IC capacity being 40 times higher than availability. However, the Swedish government kept a cool head and refused to act on international pressure to change its policy. Sweden has not shut down society. The media statement that Sweden would now pay the price for this policy lacks any factual basis. This reluctant choice appears to have been the only correct one and is now recognized as exemplary by WHO. The 82,000 predicted deaths have failed to materialize. In fact, mortality rates in Sweden are no higher than average in the European countries where draconian lockdown measures apply.

    Production 34: Article The Spectator May 12, 2020: “Can we trust Covid modeling? More
    evidence from Sweden ”
    Exhibit 35: WHO Official: Sweden's Policy of Individual Responsibility“ a Model ”for the
    Rest of the World

79. Sweden has limited its measures to avoiding large gatherings. For the rest, daily life has continued. There is nothing to show that the OMT has learned lessons from the incorrect estimates and practical experience in Sweden. On the contrary, the OMT uses the uncertainties in its predictions to allow the restrictions to continue and argues repeatedly that it is too early to let go of the measure prevention package. 'Hold on' is the message as the Netherlands and the rest of Europe are plunged into an unprecedented humanitarian and economic crisis based on non-materialized doomsday scenarios.If a decision to impose a restriction on liberty is not properly substantiated with scientific evidence, this is unlawful. Underlying figures for OMT advice are unreliable and incomplete

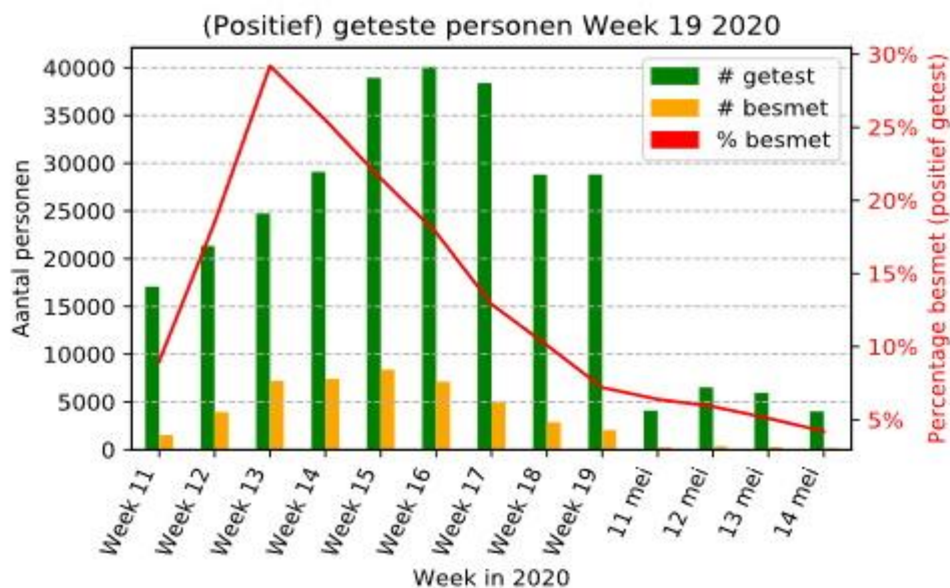
    [1] https://www.researchgate.net/publication/340060554_COVID-19_healthcare_demand_and_mortality_in_Sweden_in_response_to_non-pharmaceutical_NPIs_mitigation_and_suppression_scenarios [1] https://www.researchgate.net/publication/340060554_COVID-19_healthcare_demand_and_mortality_in_Sweden_in_response_to_non-pharmaceutical_NPIs_mitigation_and_suppression_scenarios

80. A major shortcoming is the lack of data to support the policy. To determine whether and which measures are necessary, the situation must first be determined. This is only possible with representative samples of serology tests to determine the percentage of the population that has developed antibodies against the virus. Therefore representative samples should have been carried out. This has not happened, which makes the advice of the OMT unusable. This view is shared by leading scientists such as Prof. John PA Ioannidis of Stanford University. Already on

March 17, 2020 - a day after the measures took effect - he warned in an article that this is a fiasco in the making.

Production 36: “ A Fiasco in the Making? As the coronavirus pandemic taken hold, we are making decisions without reliable data ”

81. As will be explained in detail below, according to renowned scientists, an impression of the actual IFR and the number of IC places required can only be obtained on the basis of the results of a representative sample. Although it was already announced in the advice of 6 April 2020 that a capacity of 30 to 50,000 tests per day was available, it remains remarkably quiet. Neither the OMT nor the policymakers have shown any intention to create a basis in the shortest possible term for the necessity of the measures that have now been in force for months. The only study currently underway is the Pienter Corona study, which involves 6,000 people. The investigation has now been completed, but has not been published.
82. The focus on the daily numbers of infected persons is also misleading, as shown in the graph below. The number of tests increases disproportionately with the number of infections detected. As a result, the number of infections detected gives a misleading picture.



83.
The daily reports of the numbers of positively tested cases lack an indication of the total number of tests performed. The intensity of the testing directly determines the number of positive tests, which gives no indication of the actual course of the epidemic. Each headline in the mainstream media prominently publishes the number of newly confirmed infected individuals on a daily basis. In this way, the public has been presented with a dynamic of the virus that did not actually exist. In addition, the OMT has adjusted the test policy several times so that the course of the epidemic can no longer be followed. Where previously only people who were eligible for hospitalization were tested, this was later extended to everyone with flu complaints.

Kohn about this policy

84. In practice, the policy between the Netherlands and Germany hardly differs. RIVM's German counterpart, the Robert Koch Institute (RKI), is also under attack for its inimitable and unclear policy that offers no prospects for desperate citizens.

85. Kohn explains this by the lack of adequate tools for a hazard analysis. Based on incomplete and unsuitable information, a correct hazard assessment is impossible. The danger of COVID-19 has long been overestimated, even when it was already clear that it was a false alarm. That this has remained undiscovered for a long time is because the protocols that are ticked off in these situations do not contain a control tool. No alarm will go off if the damage from the measures taken exceeds the damage from the pandemic. After ticking off protocols, subsequent decisions are often governed by political and ethical beliefs.
86. The damage caused by the measures is now astronomical, while the measures are still in force without any legitimate purpose. Kohn fears that politics is currently focused on justifying the measures taken rather than acting in the interest of the population. According to Kohn, the shortcomings in crisis management have led to the population being fed with misleading and unstable information. Kohn believes that as a result of this mismanagement, "the government has become the largest producer of fake news."

Conclusion

87. It follows from the above that the decision-making regarding the measures cannot withstand the test of care. A remarkable dynamic has arisen in which measures are randomly taken from the grab bag without these being substantiated by policy. The consent of the voter in the polls has apparently become leading. Where the OMT advises not to close the schools, they are closed after a call from the people without any substantiation. And while hundreds of thousands of children are at home, the OMT changes course, follows this irrational decision and even recommends that it be reopened only sparsely in its follow-up advice.
88. Unilateral media coverage has seriously affected a balanced balance of interests. However, politicians should not base policy on emotion, but should make responsible decisions that are legally justified. As a controlling body, parliament is failing completely in this crisis.
89. As a result of the measures, the government deficit has exploded and amounted to at least 92 billion. Answering the question of what knowledge policymakers had at the time of announcing the measures on March 16, 2020, and whether this course of action was justified at the time, goes beyond the scope of this subpoena. These questions may be addressed later in a parliamentary inquiry and possibly a criminal investigation. It is only important for this summons that, given the knowledge currently available, it is impossible to justify the continuation of the measures. These must be terminated immediately.
90. Now that it has been established that decision-making is legally untenable, the other three conditions set by the ECtHR will be discussed in more detail below, namely the purpose, effectiveness of the means used and proportionality.

WHAT IS THE PURPOSE OF THE MEASURES?

91. The purpose of the measures was adapted and changed several times during the lockdown without further explanation. The advice of 15 March 2020 sets out to maintain good care for the seriously ill and people from groups vulnerable to coronavirus infections. In the Prime Minister's first speech, the gradual attainment of group immunity was given as justification for the measures.
92. A three-pillar transition strategy was presented on 6 April 2020. No concrete criteria have been set for these goals:

    1. Determining an acceptable burden on the ICs and hospital care over a longer period;
    2. optimizing the recognition of coronavirus infections, contact detection and contact notification;
    3. Protection of vulnerable groups in society.

93. It is remarkable that the OMT has included the second point in its advice. This makes the continuation of the measures dependent on the availability of a suitable app. OMT will then issue follow-up advice on 20 April 2020. Again, the goal is to prevent the virus from spreading to vulnerable people in order to avert overload on the health care system. IC occupancy should be reduced to 700 beds by May 1, 2020. In addition, the harmful effects of the measures on the population and society must be limited as much as possible and broad support must be maintained among the population.
94. Based on the advice of 4 May 2020, the Minister will send a letter to the House of Representatives on 6 May 2020 with an update on the state of affairs. According to the minister, good results have been achieved since March and new infections and the number of hospital and ICU admissions are decreasing. According to the minister, we are only at the beginning of the next phase in combating the outbreak, in which work is progressively progressed to the control phase. According to the minister, this must be done in a responsible manner, because the chance of a second outbreak is real if action is not taken carefully. According to the minister, this is a joint search for a responsible path until we have a well-functioning vaccine.
95. In the control phase, three anchor points are maintained, namely ensuring that care can cope, protecting vulnerable people in society and gaining more insight and insight into the spread of the virus. In this transition phase, to be well prepared for the next phase, “the new normal”, the minister believes that clear frameworks from the government and good agreements with society are needed. Only then will it be possible, according to the minister, to phase out the measures taken, offer perspective to society and restart economic activities as much as possible.
96. What is striking about the goals set is that removing the restrictions on freedom as soon as possible is not a priority. There is talk of a transition phase in which the freedom restrictions remain in force. What is also striking is that none of the goals set is directly aimed at preventing deaths. Preventing overloading of care does imply this, but there are no estimates of the number of lives that can be saved with the measures that now cost hundreds of billions. Preventing overloading of care seems to have become an end in itself. This while it regularly occurs in flu epidemics that care is completely overloaded.
97. Professor of virology Hendrik Streeck, director of the leading Institute of Virology and HIV research at the Medical Faculty of Bonn, also finds it striking that the capacity in healthcare is suddenly leading. Such measures have never been taken for other infections. ' In Germany, the same argument is used to justify the custodial measures

when 10,000 IC beds were unused at the height of the epidemic (sic!). For example, the RIVM website contains the following information about the influenza wave of 2017/2018:

“Flu
In the winter of 2017/2018, the flu epidemic lasted 18 weeks. That is longer than the average of the past 20 years (nine weeks). In total, between October 2017 and May 2018, approximately 900,000 people fell ill with the flu virus. An estimated 340,000 people visited the GP with flu-like symptoms. In addition, hospitals were temporarily overburdened by the many patients who had to be admitted due to complications from the flu (usually pneumonia); an estimated 16,000. Also, 9,500 more people died during the epidemic than is usual in the flu season (October to May). ”

98. With regard to the influenza mortality in 2017/2018, it should also be noted that the excess mortality is not 9,500 but 12,000. The first-mentioned mortality is the excess mortality compared to the annual normal influenza mortality of 2,500. Hospital admissions and deaths associated with corona, mostly with complications such as pneumonia, are significantly lower than in the 15-week COVID-19 epidemic (as of May 25, 2020):
Hospital admissions 11,492
Deaths 5,830
99. According to these figures, the COVID-19 epidemic can be classified as mild to moderate. This can be deduced from the National Security Profile 2016. It is classified as serious here 40 to 50,000 hospital admissions and 14,000 deaths. The current epidemic falls within the scope of the baseline scenario outlined, which assumes 18,000 hospitalizations and 7,000 deaths. In the national security profile, the Spanish Flu in 1918-1919 with 20,000 deaths was mentioned as an example of a pandemic. Estimated costs in the scenario of a major epidemic have been estimated at up to EUR 5 billion. The budget deficit resulting from the current epidemic is estimated to be $ 92 billion, but is projected to be higher. This is unrelated to the economic and social damage that can hardly be predicted.

Production 37: National Security Profile 2016

100. Prominent epidemiologist Wolfgang Knut Wittkowski, head of Biostatistics, Epidemiology, and Research Design, Center for Clinical & Translational Science, questions whether hospitals were actually overloaded during the COVID-19 epidemic. According to him, there may have been local bottlenecks to which the media has paid disproportionate attention. Even the hospitals in New York - Wittkowski's hometown - have not been full. This while the image of a disaster has been brought out in the media. Staff have even been sent home in New York because there was no work. This has also been the case in Germany, where hospitals have been occupied for a maximum of 60%. For corona, it is characteristic that there is a high peak and the virus disappears afterwards. This is the case with all respiratory viruses.
101. Pursuing the prevention of a (possible) overload of care at all costs, compared to the price to be paid, is a monstrous endeavor with surrealistic features. This also applies to the link made by the OMT and various policy makers between the availability of a vaccination and a working tracking app for the entire population and

the termination of the measures. These two conditions suggest that the policy pursued is not the result of personal considerations, but that a check by the WHO guideline is carefully checked. The objectives and formulations in the OMT's recommendations correspond to the scenario recommended in the guideline for the transition phase “Strengthening and adjusting public health measures throuhout the COVID-19 transition phases”, which was released on 24 April 2020. The following can be read (p. 6):

“Managing the transition phase effectively will depend on finding the best equilibrium between modulating restrictive large-scale public health interventions, such as identifying, isolation, testing and caring for all cases, and tracing and quarantining all contacts together with personal protective measures (hand hygiene and respitory etiquette) and individual physical distancing (> 1 meter distance). (…)

Measures must be eased in an incremental, step-wise manner leaving sufficient time (around 2 weeks) to elapse for the true impact of the easing becomes visible. The time interval between relaxation of two measures depends largely on the quality of the surveillance system and capacity to measure the effect.

Transition is likely to be a bidirectional process and countries must be ready to constantly monitor, adjust, move forward and quickly reverse processes depending on the disease transmission patterns and how they change as a result of the shifts in restrictive measures as well the manner in which people react to the easing of the restrictions. It is extremely important to emphasize that in practice, risk will depend very much on people's interaction, behavior and cultural or living arrangements.

Due consideration should be given to progressive easing. When deciding which measures should be reversed first, modeling suggests that lower risk activities could include use of public spaces and people allowed of their home but still keeping distance (> 1 meter distance) while higher risk activities could include opening restaurants, schools, non- essential retail and some small gatherings.

Until a vaccine is made available, individual physical distancing (eg> 1 meter distance), hand hygiene measures must continue to play an important role, even as large-scale restrictive measures are adjusted. ”

Production 38: “Strengthening and adjusting public health measures throughout the COVID-
19 transition phase”

102. The objectives formulated and the roadmap recommended by the OMT, including the formulations used, are in full agreement in terms of both content and language use, with the transition strategy outlined by WHO. It also states that the measures should continue until **a vaccine is available** to the entire population . The government should constantly address citizens that "bad behavior" threatens renewed closings of society. This is the "new normal" about which both policymakers and the media persistently report.

103. Preventing bottlenecks in healthcare as the main objective for the continuation of the restrictions of freedom and other fundamental fundamental rights is not in itself strictly necessary in the light of the ECHR to manage an emergency and thus unlawfully towards a citizen who has the right to live a life without unnecessary government interference. The previously set goals of fewer than 700 IC beds have been amply achieved and the outlined armageddon has not been forthcoming. The previously projected 1,900 required IC beds in mid-May turned out to be unnecessary in retrospect. Currently (May 25, 2020) less than 200 IC beds are occupied by patients with COVID-19. Nevertheless, no real perspective is offered on the removal of the exceptional situation.

104. Policy-makers' efforts to maintain this situation until the availability of a vaccine and surveillance app to the entire population are grotesque and lack democratic credentials. In addition, there are serious questions about the current obsession with the development of a vaccine. All the more so since past experiences are a prudence. For example, on April 25, 2009, the WHO declared swine flu a pandemic. A worldwide panic situation that has a striking similarity with the COVID-19 situation was the result. The Dutch government hastily bought 20 million units of a vaccine for 144 million euros, which was developed without a thorough test period. Europe-wide has been spent on this vaccine for billions. These were eventually destroyed unused because the vaccine was more dangerous than the virus itself. In the Netherlands, 25 people died as a result of the Mexican flu.

105. Wittkowski himself is a great advocate of vaccination if it is necessary and effective. In the case of COVID-19, a vaccination is unnecessary. Wittkowski openly wonders "why governments engage with experts who know nothing about virology." Wittkowski argues that there is no scientific evidence that a vaccine can help to combat COVID-19. "It is completely absurd to bet on a vaccine," Wittkowski said. Professor of epidemiology and public health at Stanford University John Loannidis believes that it is unlikely that immunity would arise after passing COVID-19. "The virus is similar to the influenza virus. A repeated infection is only possible after the virus has mutated. That can take two years. Normal life should be resumed as soon as possible, ”says Loannidis. According to him, vaccines are among the greatest achievements in science, but that does not mean that this vaccine will also be a success. In any case, previous attempts to develop corona vaccines have been unsuccessful and have caused many problems due to overreactions of the body, sometimes resulting in death. Ioannidis. “By waiting 18 months, we destroy ourselves. It takes a decade to determine whether a vaccine is actually safe. ' In any case, previous attempts to develop corona vaccines have been unsuccessful and have caused many problems due to overreactions of the body, sometimes resulting in death. Ioannidis. “By waiting 18 months, we destroy ourselves. It takes a decade to determine whether a vaccine is actually safe. ' In any case, previous attempts to develop corona vaccines have been unsuccessful and have caused many problems due to overreactions of the body, sometimes resulting in death. Ioannidis. “By waiting 18 months, we destroy ourselves. It takes a decade to determine whether a vaccine is actually safe. '

https://www.who.int/mediacentre/news/statements/2009/h1n1_20090425/en/
https://www.who.int/mediacentre/news/statements/2009/h1n1_20090429/en/ https: // www. rtlnieuws.nl/nieuws/artikel/3073921/mexican-griep-kostte-onnodig-144-million
Interview KenFM, April 29, 2020

106. Before taking a closer look at the measures taken, the current status of the epidemic will first be discussed. After all, if there is no pandemic, there can of course be no justification in advance for any measure restricting freedom.

Pandemic is over

107. The primary aim of the measures is to prevent overloading of healthcare, in particular of IC capacity. The measures can only be useful if the cause of the overload is still present. In the absence of the problem, the aim pursued is in principle already unjustified. Official figures show that the epidemic had already peaked at the beginning of the measures on 16 March 2020.

108. The course of the epidemic is identical to any other annual virus infection. Professor Dr. Stefan Homburg, director of the Institute of Public Finance at Leibniz University Hanover, concludes from the official figures that the measures taken are completely meaningless and have had no impact on the course of the epidemic. In countries where there has been no lockdown, the curve has been identical. This applies to both Sweden and South Korea. On March 23, 2020, the epidemic in Germany was already over. Homburg calls the pandemic "a lie." From the RKI data it can be deduced that the peak of the epidemic was on March 21, 2020. Since this date, the reproduction factor R0 is below 1. The dynamics that the official figures show afterwards, can only be explained by a changed test policy. The situation in the Netherlands with regard to staff turnover is no different. The OMT's opinions confirm that the reproduction number R0 has been below 1 since March 16, 2020.

Exhibit 39: Homburg: "Statistik widerspricht Lockdown", Panorama April 27, 2020

109. Wittkowski also supports this view. He says the epidemic is over. The numbers are falling everywhere. There are no indications that the consequences are worse than that of the current flu wave. When the measures were taken, the worst was already over. Closing the economy, he says, is 'madness'. Ioannidis also shares this view. Homburg also points out that in Germany the lockdown by policy makers is justified with the prospect of presumably 1.2 million deaths. This armageddon did not take place independently of the measures. Based on these figures, the Federal Government must have known in March 2020 that the danger was greatly exaggerated. This question could later be the subject of a parliamentary inquiry or a criminal investigation.

110. Nor is the argument that the measures are necessary because there may be a second wave of infections. According to Wittkowski, a second wave is rare. The only example he knows is the Spanish Flu. In addition, the second wave is usually milder than the first. "The worst thing that can happen is a mild second wave. Nothing shocking happens, ”said Wittkowski.

111. The conclusion is that the goals set by the OMT and policy makers do not provide grounds for a continuation of the exceptional situation and is therefore unlawful.

„Es ist eine Lüge“ Punkt PRERADOVIC mit Prof Dr Stefan Homburg April 28, 2020: https://www.youtube.com/watch?v=y-6Wlsm2Cso
Wolfgang Knut Wittkowski, Head, Biostatistics, Epidemiology, and Research Design,

Center for Clinical & Translational Science, April 29, 2020: KenFM
Dr. Ioannidis on Results of Coronavirus Studies April 30, 2020,
https://www.youtube.com/watch?v=T-saAuXaPok
Standpunkte: Dirk Ginzel, Bundesregierung wusste schon im März, dass Gefahr übertrieben dargestellt wird, KENFM, May 7, 2020

ARE THE MEASURES SUITABLE FOR ACHIEVING THE GOAL?

112. The next question to be answered is whether the imposed measures are suitable to achieve the stated goal. The following should be noted here. The basic principle when imposing government-restricting measures is that they can be regarded as unlawful and arbitrary if they lack solid scientific substantiation. At present there seems to be a situation where citizens have to demonstrate that a measure is not effective in order to regain their freedoms. Obviously, this is the upside-down world. The Netherlands is not an open institution where the management deems or removes the freedoms of the residents at their discretion. The starting point is that any restriction of freedom must be strictly necessary and proven to be effective. To date, no solid substantiation is available.

113. The measures taken are not effective and lack any ratio. This is evident, firstly, from a comparison with countries where mandatory measures have been dispensed with. For example, hardly any measures have been taken in Sweden and Japan. Those who follow the media in the Netherlands can get the impression that Sweden has made a big mistake and the death toll is rising uncontrollably. However, here too, the figures do not support the harsh criticism in the media. In Sweden, the mortality rate with 3674 deaths out of 10.23 million inhabitants is 0.039 compared to 0.033 in the Netherlands. Belgium, with one of the strictest lockdowns in Europe, has a mortality rate that is double that of Sweden, at 0.076. Also in France with a mortality rate of 0.041 and Spain with 0,

114. Secondly, based on previous WHO recommendations, it can be established that the rationale behind the measures in the Netherlands is missing. In October 2019, the WHO published a comprehensive study on the effectiveness of non-pharmaceutical agents that can be used to contain an influenza virus (hereinafter referred to as “the WHO study”. These recommendations also apply to COVID-19 virus: A study carried out in Taiwan shows that the influenza virus is up to four times more contagious than the COVID-19 virus.

115. In the WHO study, the measures that the Dutch public is currently subject to have been examined for effectiveness, impact and suitability. A distinction has been made between an average, severe and extraordinarily severe pandemic. The COVID epidemic will be regarded here as a “moderate” pandemic (it will be shown below that the consequences of COVID-19 are no more severe than that of an average influenza wave). What measures does the WHO advise in the event of a pandemic such as this?

Exhibit 40: Non-pharmaceutical public health measures for mitigation the risk and impact of epidemic and pandemic influenza

116. The only measures that the WHO study advises in a pandemic like this are: hand hygiene, no coughing in the hand, face masks for persons with disease symptoms, surface hygiene, ventilation, quarantine of sick persons and giving travel advice. In the case of an average pandemic, such as COVID-19, it may be decided as an additional measure to refrain from major events. The measures that currently apply in the Netherlands are not recommended or conditionally recommended in the WHO report in the event of a very serious pandemic. **In the current situation, the measures lack any ratio.**

MedRxiv March 19, 2020, High transmissibility of COVID-19 near symptom onset Hao-Yuan Cheng, Shu-Wan Jian, Ding-Ping Liu, View ORCID ProfileTa-Chou Ng, Wan-Ting Huang, Taiwan COVID-19 outbreak investigation team, View ORCID Profile Hsien-Ho Lin doi: https://doi.org/10.1101/2020.03.18.20034561

117. Indeed, a meta-analysis shows that there is no evidence that wearing mouth masks is effective in limiting the transmission of viruses (p. 6 of the WHO study). Incidentally, the OMT has never advised that mouth masks be required. The current obligation to wear mouth masks in public transport serves no apparent purpose. For example, wearing mouth masks is not recommended by people without symptoms. Microbiologist and epidemiologist emeritus professor Sucharit Bhakdi of the Johannes Gutenberg University Mainz strongly advises against wearing mouth masks and points out the possible damage to health. To even have older people wear a mask, he even calls it 'a disgrace'.

118. Home quarantine for non-infected persons is also not recommended. There are serious ethical objections to this measure. Because people are locked up close to each other, transfer takes place. Ioannidis supports the conclusion in the WHO study. According to him, quarantine measures do not usually have a positive effect on the spread because people live too close together. People are actually forced by this measure to become infected.

119. Closing schools and closing other facilities can help to reduce virus spread. At the same time, there are significant objections to these measures, which have a particularly negative effect on low incomes. For example, there is a loss of income because parents have to stay at home and children suffer learning disadvantages. The WHO study recommends that this measure be considered only in the event of a severe pandemic (p. 53 WHO study).

120. The evidence that closing workplaces contributes to the restriction of virus spread is very thin. Only studies with simulations are available. Large-scale closings, according to this study, can delay the epidemic spike by a week and appear to have a modest impact on the course. The impact of this measure, on the other hand, is enormous. Self-employed people and low incomes are particularly hard hit financially. These measures also lead to economic disruption. This measure can be regarded as an extreme social distancing measure and is only recommended conditionally in an exceptionally severe pandemic.

121. **The use of contact tracing, which both the European Commission and national policymakers heavily focus on with an app (which may or may not be compulsory to install), is by no means recommended by the WHO.** Studies show that the effectiveness of contact tracing is very limited. Only one study measured a very limited positive effect in combination with quarantine measures. This agent can only be used in specific circumstances with a very small number of infections. With a virus like COVID-19, which has similar properties as the

influenza virus, using such an app will quarantine the entire population in no time. In addition, according to the WHO study, the ethical objections of such an app are significant. The WHO study advises against the use of contact tracing in all cases. Also according to Ionnaidis, the use of this drug is only useful with few infections and this does not work in most countries. If 30% of the people are infected, 70% of the population is in contact with it. The entire population is quarantined in no time. Even with an infection rate of 5%, it is virtually impossible to contain the spread with an app.

122. The conclusion is unambiguous: Both from the comparison with countries that have not taken compulsory measures and from the WHO study, it follows that the ratio for the measures is missing. This makes the continuation of the measures illegal.

HAS THE SUBSIDIARITY PRINCIPLE BEEN MET?

1. The next question to be answered is whether no less drastic measures were possible to achieve the same result. The measures have been presented by policy makers as the only possible way without an alternative. Sweden's example in particular points to the contrary. Sweden has in fact followed the recommendations of the WHO study and confined itself to conducting behavioral advice to the population and canceling major events. Daily life has continued without the government's commitment to repressive measures. Despite this, mortality rates in Sweden are no higher than average in Europe and even lower than the countries with the hardest *lockdowns.*

- The argument put forward by politicians and media against this example is that the case of Sweden would be incomparable because the population density is much lower. This argument is not valid. Ioannidis points out that the number of contacts in Sweden may be lower than in many countries, but it is comparable to a country like Switzerland. The mortality rate is higher in that country than in Sweden. According to him, there is no evidence that Sweden has done anything wrong. Also, healthcare has not collapsed. [1]

- Wittkowski finds the measures exaggerated. According to him, it is a tragedy that not the elderly but the young are isolated. Isolating people who are not infected is disastrous, he says. It is much cheaper to isolate nursing homes - where most fatalities occur - than the entire population. In addition, he wonders why we suddenly have to organize our whole lives differently for a virus as it has been occurring for thousands of years. This epidemic is no different from other epidemics that visit us every year. There was no need for measures that are normally not taken in the event of an influenza epidemic, for example. [2]

- Streeck also criticizes the way in which the measures were decided. "The models used are highly speculative," says Streeck. Based on these speculations, decisions are taken for further measures without first waiting for the effect of measures taken earlier. There has also been insufficient research into the facts and Streeck is surprised that this has not been done. For example, the course of the epidemic

should have been investigated by conducting large representative samples. As a result, the need for rigid measures has not been sufficiently established. For example, intensive testing has been carried out in South Korea to monitor the course of the epidemic. Policy decisions were made on the basis of this. This has not happened in the Netherlands any more than in Germany.

- The conclusion is that the initial hygiene advice to the public would probably have been sufficient to mitigate the harmful effects of the virus. Sweden's example illustrates this. The choice for milder alternatives has not been sufficiently investigated. Therefore, decision-making does not test the subsidiarity principle.

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[1] Dr. Ioannidis on Results of Coronavirus Studies April 30, 2020, https://www.youtube.com/watch?v=T-saAuXaPok

[2] Wolfgang Knut Wittkowski, Head, Biostatistics, Epidemiology, and Research Design, Center for Clinical & Translational Science, April 29, 2020: KenFM

[1] Dr. Ioannidis on Results of Coronavirus Studies April 30, 2020, https://www.youtube.com/watch?v=T-saAuXaPok

[1] Wolfgang Knut Wittkowski, Head, Biostatistics, Epidemiology, and Research Design, Center for Clinical & Translational Science, April 29, 2020: KenFM

ARE THE MEASURES PROPORTIONAL, IS THE REMEDY NO WORSE THAN THE DISEASE?

preface

128. The consequences of the measures should not be underestimated. People see their security of existence slip away through mass unemployment, poverty and bankruptcies. Demoralization and mistrust are the result. The humanitarian consequences are also incalculable. The loss of life, health and wellbeing as a result of the measures can only be justified in an acute life-threatening emergency. As will be shown below, this is not the case. As senior civil servant Kohn rightly concludes in his analysis, collateral damage exceeds any utility sought by policy makers. But even if only the magnitude of the loss of life caused by the measures is compared to the deaths caused by COVID-19 - even with the use of the polluted statistics - the balance is quickly taken. The measures cannot be justified and must be lifted immediately. The threat posed by COVID-19 will be described below. The consequences of the policy for the economy, health, welfare and the rule of law will then be described.

COVID-19: a ruthless killer virus?

129. WHO has been responsible for a media campaign that has driven the public into an anxiety psychosis. This fear campaign reached an unprecedented peak when Bruce Aylward, the Deputy Director General of WHO and the chairman of an international mission to Wuhan, found that there are no indications of cases involving a mild course of the new virus.

Exhibit 41: Article STAT February 25, 2020: New data from China buttress fears about high coronavirus fatality rate, WHO expert says

130. Earlier, the WHO based its alarming message on the fear of high infection fatality rates (IFRs). It has been suggested that 2-4% of infected people would die while at the same time there would be no evidence of large numbers of infected people with mild disease. For example, based on the research in China, the WHO communicated about an IFR of 2.3%. This number was also mentioned in an official report about the outbreak in China. The fear campaign was subsequently given a new impulse by the situation in Italy, as a result of which IFR reports went up to 10% for an extended period in WHO reports.

131. While the epidemic has continued for nearly five months, there is a global lockdown with catastrophic economic and humanitarian damage. Despite these consequences, it is noticeable that the WHO is not making any efforts to induce Member States to investigate the actual IFR through serological investigations. On the contrary, it is remarkable how the WHO maintains the myth surrounding the COVID-19 virus and encourages its member states to keep its residents in a potentially years-long exception until a vaccine is available. The WHO's action wrongly gives the impression that it is trying to save humanity from disaster.

132. A Q&A with extensive information about COVID-19 can be found on the WHO website. Advice is given on hygiene rules, precautions, symptoms, and a host of other information. However, anyone looking for an answer to the most pressing question that arises in the Q&A, namely the chance of death, will be disappointed. This information is missing. For the benefit of the propaganda campaign COVID-19 RCCE Action Plan Guidance (See Exhibit 26, p. 23), the WHO has made a source of General information needed by most audiences about COVID 19 available to its member states. Where behind each question is a web link with extensive answers to the most frequently asked questions, the question How severe is it?

[1] Characteristics of and Important Lessons From the CoronavirusDisease2019 (COVID-19) Outbreak in China Summary of a Report of 72314 Cases From the Chinese Center for Disease Control and Prevention
[1] www.who.int COVID-19 situation reports

Neither the mainstream media, the OMT nor politicians seem to be concerned with answering this question. The public is kept in fear by politicians and the media with anecdotal evidence and impregnation of daily infection and death rates without any context. Everyone knows the endlessly repeated horror images with coffins, corpses and panic stories from Wuhan, Northern Italy, Madrid, Barcelona, Paris, New York City. However, as explained below, the impact of the COVID-19 virus is

limited. Every day, 150,000 people worldwide die from causes other than this virus. Although a killer virus has been active for more than four months, the statistics show something else. For example, in the first four months of 2020, Germany is more likely to die than to die (Source: Robert Koch Institut):
2016 290,641
2017 315,576
2018 330,152
2019 301,558
2020 304,354

Obviously, the answer to the question of how serious the COVID-19 virus is is central to the question whether the consequences of the measures are in proportion to the consequences of the virus.

How dangerous is the virus?

135. Neil Ferguson's predictions from Imperial College have spurred a new high in the panic, resulting in Europe's lockdown in no time. Ferguson predicted a death toll of 500,000 for the UK alone. Even Prime Minister Boris Johnson, who was cynical up to that point, was killed. Almost silently, Ferguson has revised the estimated deaths to under 20,000. The WHO estimated 40 million deaths worldwide.

136. The epidemic is now almost over. There are hardly any new illnesses or deaths. Nevertheless, freedom-restricting measures remain in force and are even laid down in a temporary law in the Netherlands. From the analyzes of the mortality figures worldwide it is now clear that even on the basis of the polluted COVID-19 figures, the danger of a regular influenza wave hardly exceeds, if at all. Polluted figures because these studies are based on the officially published figures.

137. This is not problematic because only numbers of deaths with and not exclusively by COVID-19 are kept. It is unclear why the choice was made to include every death that was tested positive at the time of death in the COVID-19 statistic. This leads to much confusion. Italy is usually cited as an illustration of the danger posed by COVID-19. For example, the death toll that died in Italy with COVID-19 has risen to just over 30,000 (as of May 7, 2020). Meanwhile, Prime Minister Giuseppe Conte has admitted in the Italian parliament in answer to questions that more than 99% of registered COVID-19 deaths have not died of the virus.

Production 42: Article 18 March 2020: “99% of those who dies from virus had other illness, Italy says”

138. The majority of the deaths had one or more significant conditions - 98.8% with at least one comorbidity, and 48.6% three or more conditions - which contributed to death. The mean age of the deceased was 80 years and the mean age of patients requiring ICU care was 67 years. Incidentally, the age of the deceased with COVID-19 worldwide is far above the average life expectancy:

Country Average age Source
Austria 80+ EMS

UK 80+ NHS

France 84 SPF

Germany 82 RKI

Italy 81 ISS

Spain ~ 82 MDS

Sweden 86 FOHM

Switzerland 84 BAG

US ~ 80 CDC

139. In Italy, and particularly in the Bergamo region, the death toll was higher on average than in many other places, Ioannidis blames the fact that most of the infections were caused by hospital personnel. In addition, strategic mistakes have been made in Italy that have brought patients with relatively mild symptoms to the hospital, while hospitals there usually already operate at their capacity limits in winter due to the annual wave of influenza. It also played a part in the fact that Italy has a relatively old population. It is estimated that fewer than 300 people have died of COVID-19 in Italy. According to Ioannidis, COVID-19 contributed only very little to the cause of death of the registered COVID-19 deaths.

Exhibit 43: John Ionnidis et al 'What Other Countries Can Learn From Italy During the
COVID-19 Pandemic'

140. Ioannidis' theorem is supported by the observations of Klaus Düschel, forensic physician and director of the University Clinic Hamburg-Eppendorf (UKE). Against the prohibition of the Robert Koch Institute - which in its guideline rejected autopsies of patients with COVID-19 - Düschel has now carried out more than 120 autopsies on patients who died with COVID-19. "In none of the deaths were COVID-19 the cause of death," said Düschel. As a cause of death, he mainly encountered a lot of thrombosis and pulmonary embolism, often a result of a lack of exercise. Even the exceptional deaths of patients under the age of 50 who were attributed to COVID-19 were found to have autopsies of which they were unaware.

Characteristics of COVID-19 patients dying in Italy. Istituto Superiore di Sanità, https://www.epicentro.iss.it/en/coronavirus/sars-cov-2-analysis-of-deaths
Perspectives on the Pandemic | Dr. John Ioannidis Update: 4.17.20 |, https://www.youtube.com/watch?v=cwPqmLoZA4s
WELT DOKUMENT: Corona Study - Viele Covid-19-Erkrankte sterben an Embolien, https://www.youtube.com / watch? v = VvH3mG-v0Ms

141. According to Ioannidis' findings based on data from 11 European countries and 12 US states, the number of deaths under 65 is only 5-9% of the total. The risk to a person under 65 with no life-threatening conditions to die from COVID-19 is equivalent to the risk of dying in a car accident. Even in New York, where IFR was significantly higher, the risk is comparable to a truck driver's chance of dying in a collision. Wittkowski confirms this picture: 'It happens in individual cases that the virus makes other victims. However, these are not representative, but are disproportionately exposed by the media. '

142. The Oxford COVID-19 Evidence Service has conducted extensive research based on IFRs that have been officially published worldwide. The researchers arrive at an IFR of 0.36%. This means that 36 out of 10,000 people who become infected with the COVID-19 virus die. This is consistent with the results of the Heinsberg study recently conducted in Germany by the Institute of Virology at the University of Bonn. In this study, 919 people were serologically tested in the town of Heinsberg, which was severely affected after the carnival celebration. From these results, the researchers arrive at an estimated IFR of 0.36%. This was later adjusted to 0.278.

Exhibit 45: Global Covid Case Fatality Rates Oxford COVID-19 Evidence Service

143. Recently, additional studies have been published internationally based on serological research that confirm this picture. In a study published on May 19, 2020, Ioannidis concludes from new research that IFR is <0.20% in most countries. In COVID-19 hotspots in three countries, he comes to an IFR of <0.40%. A study on Iran published on May 1, 2020 indicates an IFR <0.12%. A study in Denmark in collaboration with the blood bank shows an IFR of 0.08%. Three studies in the United States also point to a comparable IFR. A study in Santa Clara 0.17%, Miami Dade County 0.18% and a Los Angeles study from the University of Southern California <0.20%.

144. This probably corresponds to the results of the Pienter Corona survey conducted by RIVM in collaboration with Sanquin. Since April 17, 2,096 donor blood samples have been examined. Antibodies to COVID-19 were found in 3.6% of the samples examined. For people over 20, this is 4.2%. Sanquin compared the samples, which were apparently collected in early April, with archive material from the blood donors from before the epidemic started. In cases where there were doubly positive results, the result is not taken into account. This gives great uncertainty. Assuming blood samples were taken in early April 2020, IFR is estimated to be 0.321.

145. Influenza's IFR is between 0.1 and 0.35. According to RIVM figures, a total of 5,680 people who tested positive for COVID-19 had died on May 17, 2020. Of these deaths, only 62 were COVID-19 the leading cause of death. This equates to an IFR of around 0.004. The others died with and not by COVID-19. The extent of the influenza mortality is usually estimated based on the excess mortality during the flu season. In the first three months of 2020, fewer people died per day in the Netherlands than average. If the excess mortality is taken over the first 17 weeks of 2020, there is an excess mortality of 8,325 more than the average for the first 17 weeks of the years 2017-2019. How many of these have died with the COVID-19 virus cannot be determined. The COVID-19 epidemic started in the middle of the annual influenza wave. In addition, it is not imaginary that the measures themselves have caused a significant excess mortality. The number of hospital admissions is far from equal to the number seen, for example, two years ago during the influenza

wave. Then more than 5,000 more people were treated.

[1] MedRxiv, Popoltion-level COVID-19 mortality risk for non * -elderly individuals without underlying diseases in pandemic epicenters, April 5, 2020

[1] Head, Biostatistics, Epidemiology, and Research Design, Center for Clinical & Translational Science April 29 KenFM

[1] *Infection fatality rate of SARS-CoV-2 infection in a German community with a super-spreading event,* Hendrik Streeck *et* Institute of Virology, University Hospital, University of Bonn, Germany, and German Center for Infection Research (DZIF), partner site Bonn-Cologn

[1] MedRXiv 19.5.2020, Ioannidis 'The infection fatality rate of COVID-19 inferred from seroprevalence data'

[1] MedRXiv 1.5.202, Maryam Shakiba, "Seroprevalence of COVID-19 virus infection in Guilan province, Iran"

[1] MedRXiv, 24.4.2020, Christian Erikstrup et al, "Estimation of SARS-CoV-2 infection fatality rate by real-time antibody screening of blood donors"

[1] MedRXiv, 4/14/2020, Eran Bendavind, COVID-19 Antibody Seroprevalence in Santa Clara County, California

[1] Second round of COVID-19 community testing completed; Miami-Dade County and the University of Miami Miller School of Medicine announce initial findings

[1] https://pressroom.usc.edu/preliminary-results-of-usc-la-county-covid-19-study-released/

[1] https://www.tweedekamer.nl/sites/default/files/atoms/files/20200422_technische_briefing_jaap_van_dissel_rivm_22_april.pdf

146. It is also important to place the mortality figures in the right context. In recent months, the media and politicians have impregnated the public daily with bare numbers of deaths with COVID-19 without placing it in proportion to the other mortality rates. For example, in the first quarter of 2019, 112 people died daily of cardiovascular disease, 66 of mental disorders and nervous system diseases and 133 of cancer. These numbers of people die every day from these diseases year after year. Nevertheless, society has not been fully devoted to measures to prevent these deaths, nor have laws been passed and apps developed to closely monitor the entire population or to make sufficient efforts to prevent these diseases. Nor has the economy collapsed. Throughout the entire COVID-19 epidemic, there were

approximately 10 days when around 150 people died each day with the virus. If the eight-hour news had listed these figures daily in addition to the COVID-19 deaths, the Netherlands would have quickly recovered from the anxiety psychosis.

147. Whatever the case, even with the most flexible calculation method, the number of COVID-19 deaths remains well below the estimated influenza deaths from two years ago. In addition, the victims are almost without exception older than 65 with multiple comorbidities. The victim group is identical to the victim group of the annual influenza wave. Wittkowski also comes to this conclusion. 'This year there are far fewer flu deaths in statistics. This virus competes with flu, "said Wittkowski. He therefore concludes that COVID-19 is comparable to influenza. Ioannidis also comes to a similar conclusion: it is a serious virus, but it is not disastrous. The risk group are not the elderly, but older people with serious conditions. The virus is not a major risk for healthy elderly people. His question is therefore how the WHO could be so wrong. Science soon knew that the first assumptions were incorrect. In Kohn's words, "the virus was a false alarm." In short, COVID-19 is not a killer virus.

[1] Wolfgang Knut Wittkowski, Head, Biostatistics, Epidemiology, and Research Design, Center for Clinical & Translational Science, April 29, 2020: KenFM
[1] Perspectives on the Pandemic | Dr. John Ioannidis Update: 4.17.20 | ,

THE FATAL CONSEQUENCES OF THE MEASURES: ECONOMY, HEALTH, WELFARE AND THE RULE OF LAW

preface

148. It follows from the above that the virus itself poses a limited threat to public health. The consequences of the measures taken against the virus are not easy. However, these consequences were foreseeable. As will be further explained here, the economic and humanitarian damage is catastrophic. In addition, the values of the rule of law seem to be losing significance in the fight against the virus. Below is a sketch of this damage.

Economic damage

149. The economic damage as a result of the measures is hardly predictable. The IMF expects a global crisis that will overshadow the Great Depression of the 1920s. Government spending is exploding, the expected tax revenue is melting away. The budget deficit is estimated cautiously at 92 billion euros this year. Policy-makers spent an amount equal to 12% of GDP within a few months. This amount is expected to have to be adjusted upwards considerably. This means that the national debt will increase by a quarter this year compared to last year. This is an unprecedented increase, the burden of which will be borne by future generations.

150. The Netherlands is also facing an unprecedented bankruptcy wave. More than 22 percent of smaller companies (5 to 20 people) do not expect to survive the

crisis. This is more than 300,000 companies. If the crisis lasts longer than six months, this is 56%. Hospitality entrepreneurs are even more pessimistic. Of these, 36% expect not to weather the crisis. A further 33 percent expect to fall if the crisis lasts six months. Should the crisis last more than six months, a majority of entrepreneurs in the car and motorcycle industry, construction and in the culture, sports and recreation sector also expect that the survival of their company will be endangered. In retail, half cannot estimate how long their business will last. The wave of bankruptcy and decline in turnover will lead to mass layoffs with historically high unemployment. Statistics Netherlands has never before recorded such a large contraction in the volume of consumption.

151. Macro economist Kees de Kort, known as a daily columnist on BNR-Radio, has been warning for months about the catastrophic consequences for the economy. The economy as a result of the measures is currently shrinking by 4 percent per month. He also warns that the financial system is in serious trouble. Rescue measures for this industry can cost hundreds of billions of dollars more. In addition, a rapid recovery is not expected. Due to the failure of production chains, it is not possible to start again where we ended. Another danger, he says, is the enormous uncertainty that will prevent companies from investing for the time being. All the more since policymakers threaten daily with the prospect that this lockdown will return regularly if new virus cases emerge. Confidence in the future has disappeared among entrepreneurs. "They will not let themselves be brought to their knees again by this cabinet," as Kees de Kort puts it.

152. The extent of the economic damage will depend on many factors. However, it is not imaginary that the measures caused hundreds of billions of damage.

[1] https://www.imf.org/en/About/FAQ/imf-response-to-covid-19

[1] https://www.cbs.nl/nl-nl/dossier/cbs-ijfers-coronacrisis/wat-zijn-de-economische-gevolgen-van-corona-

[1] https://www.cbs.nl/nl-nl/nieuws/2020/20/grootste-krimp-consumption-huishoudens-ooit-gemeten

[1] https://www.bnr.nl/podcast/kees-de-kort

Damage to health and well-being

153. According to policy makers, the measures are intended to save lives. It is now clear that the damage to health and well-being is also unprecedented. Ioaniddis also warns about the consequences. According to him, the population is in a state of shock and people will not just return to their normal lives. According to him, the consequences of this lockdown are catastrophic. As an analyst, Kohn has made a meticulous analysis of the social damage to Germany for German policymakers. Since the measures in Germany do not differ greatly, this analysis can be used as a basis to estimate the consequences in the Netherlands:

Consequences of suspension of regular care

154. 7.3 million people are treated in a hospital in the Netherlands every year. In the first three months of the year, this concerns 5.5 million patients, 40% of whom must be assessed by a medical specialist within a month. This year, from March, the start of the corona crisis, the care provided has fallen considerably compared to previous years (source: Landelijk Basisregistratie Ziekenhuizen). From March all non-urgent medical interventions and treatments have been postponed in the Netherlands. In total, 650,000 fewer referrals were given or followed up.

155. Studies have shown since the start of the measures that the number of patients with heart attacks has fallen by more than 40 percent. This is probably not because there are fewer heart attacks, but the result of an incorrect interpretation of the complaints associated with COVID-19. In addition, care is avoided for fear of contracting the virus. The National Health Service in the UK estimates the number of deaths from delayed treatments to April 25 at 20,000. This number increases further by 2,000 per week. For the Netherlands, a conservative estimate of 500 deaths per week is therefore not imaginary.

Reduced nursing care:

156. Due to the restrictions imposed, the care of dependent and elderly people is severely limited. In Germany, it is estimated that scaling back care will cause 3,500 premature deaths. For the Netherlands this means possibly 700 premature deaths as a result of the measures.

Increase in suicide:

157. The long-term negative influence on living conditions leads to a critical situation for psychologically unstable personalities. In addition, a significant increase in the number of suicide cases can be expected in response to the loss of social security and future prospects for a large part of the population.

Other
damage to health as a result of the measures: ouderen The elderly and those in need of care have been particularly affected by the measures as a result of quarantine measures and contact restrictions;

♣ The drastic changes in living conditions mean that a significant increase in the demand for psychiatric treatments for psychosis, compulsive neurosis and depression can be expected. This will lead to an increase in loss of work;

♣ Due to contact restrictions and prohibitions, there has been a significant increase in domestic violence and child abuse.

Perspectives on the Pandemic | Dr. John Ioannidis Update: 4.17.20 |,
NZa, Analysis of the consequences of the corona crisis for regular care
Decline of acute coronary syndrome since the outbreak of COVID-19: the pandemic response causes cardial collateral damage, Bernt Metzler: European Heart Journal April 16, 2020
The Telegraph April 25, 2020, Two new waves of deaths are about to break over the NHS

Decrease life expectancy

158. Life expectancy has grown enormously since the 1950s as a result of increased prosperity. This increase in prosperity made it possible to increase health care expenditure considerably. With a strongly negative development of the economy and a corresponding decline in prosperity, life expectancy may decrease considerably. It is also known that there is a strong correlation between unemployment and life expectancy. As a result of the measures, a significant volume of life years will be destroyed in the long run.

159. Conclusion: As a direct result of the measures, thousands of people have died. In addition, the measures cause an incalculable amount of human suffering.

Damage to the rule of law

160. Powers are used with the aim of saving lives. However, it is not permissible for fundamental rights to be abolished for this purpose. The curtailment of fundamental rights and freedoms through emergency ordinances with an extremely weak legal basis is exceptional. Under the motto “emergency breaks law”, policymakers have committed themselves to this. In contrast to the interpretation of the cabinet, the rule of law must also be respected in an exceptional situation. The government should of itself respect the limits of the rule of law. However, it seems to have become a habit to violate rights and to violate fundamental rights. Policy makers should be aware that there is no longer any need for justice. In the current state of affairs, it is no exaggeration to say that this is the question of whether the rule of law can continue to exist. Democracy is also actually being abolished. This is an area where policy makers should stay away.

161. As mentioned above, far-reaching violations of basic fundamental rights have been committed by emergency regulations. There is no legal basis for this. In addition, the drafting of the regulations is so unclear that this is a direct violation of the principle of legality. It is rigorously enforced on the basis of provisions that are often not understood by the police and other enforcement services. This unclear situation, in which the impression arises that everything is prohibited, causes cross-border behavior of government officials. For example, homes have been raided after neighbors tipped off the police about non-compliance with contact restrictions.

162. A microdictature has been created with the one and a half meter society. Fines have been imposed on children in parks and playgrounds for failure to comply with distance or contact restrictions. Students have been fined for sitting on a balcony together. Municipalities have opened click lines so that neighbors can betray each other. Drones have been surveyed above beaches to be able to catch holidaymakers who may secretly escape the rules. Scan cars drove around in Rotterdam for the same purpose. Thousands of fines have been issued for completely absurd offenses. A carefree stay in the open air is thus a thing of the past. This course of action shows little insight into the rule of law. It is an almost infantile approach to the citizen where the question can be asked whether we are dealing here with an elected parliament or with a strict father. Policymakers play to the population for Sinterklaas with freedoms enshrined in the Constitution.

[1] See Venice Commission, Opinion on the protection of human rights in emergency situation, CDL-AD (2006) 015), para. 13.

163. The right to demonstrate has also been seriously affected. Under the guise of protecting public health, absurd restrictions have been imposed that lack any legal

basis. For example, demonstrations are limited to a maximum of 15 people and the police intervenes with extreme force if the one and a half meter requirement is not complied with sufficiently. The Hague police made it very furious during a demonstration on May 9, 2020 at the Malieveld. Participants in a demonstration against the imposed restrictions were arrested en masse because not enough distance was kept. They were then transported to the police station in a full city bus. This is equivalent to a demonstration ban.

164. In a democratic constitutional state, the “fourth power” media plays an important role in controlling policymakers and informing citizens. The role played by the media during COVID-19 can be regarded as the bankruptcy of the free and independent press. In a symbiosis between the media and policymakers, a campaign was launched during the COVID-19 crisis that has terrified the population. The threat of the virus has permeated every pore of society. As Abraham Lincoln already knew, a frightened people voluntarily give up all their rights. It is questionable that policymakers have seized this fear of further restrictions on freedom, driven by a lack of information. The consent driven by fear and misinformation cannot serve as democratic legitimacy.

165. In addition, the media have propagated the official vision of COVID-19 in an unprecedentedly offensive manner. There is no room for dissent, so that no full debate is absent. Public crucifixions have taken place in the media as a result of completely legitimate questions raised in public. For example, Jort Kelder raised the question whether it was not necessary to weigh up the costs and benefits of the measures. These kinds of questions were not desirable. After all, people were busy saving lives. Scientists are also publicly diffused for dissenting opinions. The media has an important responsibility for the damage that has occurred. The right to freedom of expression has been seriously affected by the measures.

166. Democracy has also been largely inactivated. Temporary laws have been passed through the Houses with full votes without any substantive discussion. Critical questions about policy, fundamental rights violations or no accountability for far-reaching restrictions on fundamental rights or economic damage have been forthcoming. Instead, debates have been held on face masks.

167. The measures have also seriously affected the right to a fair trial. The Temporary Law COVID-19 Justice and Security has severely limited the public access to justice. This is a violation of Article 121 of the Constitution. Arrangements for conducting criminal proceedings by telephone also infringe the right to a fair trial. The limited possibilities for oral treatment in civil and administrative proceedings also seriously undermine the safeguards of Article 6 of the ECHR. In addition, pre-procedures for delegated arrangements have been inactivated that have increased executive power.

168. The crisis has also been used to further limit privacy regulations. RIVM demanded access to all metadata to be able to follow the movements of citizens. There must also be an app that every Dutch person may have to install. There are plans to introduce vaccination passports without which it will no longer be possible to travel. And just like after the attack on the WTC in New York, the virus serves as a pretext to throw the privacy rules all over the board. In the midst of the uproar, the government is trying to get extremely controversial legislation through the Chambers. In addition to the human suffering inflicted by the measures, confidence in the rule of law and in authority is irreparably damaged. This can lead to a situation that is not in anyone's interest.

CONCLUSION: THE BALANCE

169. Through the measures, policymakers have created a society that is all about fighting a phantom, an invisible enemy called COVID-19. Entrepreneurs are forced to discontinue their business, while the so-called relaxation of the measures provides little relief. Restricting economic activities is subject to restrictions with mandatory protocols that make it virtually impossible to continue a business in a business responsible manner. Restaurants, hairdressers and retailers are sometimes required to maintain completely absurd and seemingly arbitrary conditions that seriously limit the much-needed turnover capacity. The one and a half meter journey leads to absurd situations in which only a very limited clientele can be served.

170. Cultural life has been completely halted as a result of the measures. Music performances are prohibited just like sports competitions. Artists have been unemployed for months at home with the uncertainty whether they will ever be able to practice their profession again. Sports clubs are on the brink of collapse. A quarter of the museums are bankrupt. Relaxation possibilities have practically disappeared by closing recreational areas and coastal strips. Young people can hardly attend education. A reopening of education will take place with the limitations of the “new normal”. Education will only be allowed with strict hygiene and distance conditions. Children can no longer hang out with each other without committing criminal offenses. The population is played against each other in an unacceptable manner.

171. There is also a cognitive dissonance. On the one hand, the image has been created by politicians and the media that we are in the midst of a catastrophic disaster. These alarmistic messages on television and other media, in which images of corpses, coffins, mass graves and panic situations in distant hospitals are repeated indefinitely, cannot be reconciled with one's own observations. At the same time, unprecedented censorship makes it impossible for the population to find out the facts and investigate legitimate doubts. Companies such as Google, Whatsapp, Facebook, Instagram and other platforms are widely removing information that does not match what the WHO communicates about COVID-19. All this under the cover of fighting misinformation.

172. The enormous damage to the economy, health and the rule of law caused by the measures in the fight against a virus, the effects of which are comparable to the annual wave of influenza, is out of all proportion. This is not a perspective of the severity of the virus. COVID-19 a virus that makes victims just like influenza does. This has been happening for thousands of years, but humanity has always survived. It is a mystery why policymakers have caused hundreds of billions of damage to fight this virus.

173. The fact that the effects of the measures are completely disproportionate also follows from official policy documents. In order to prevent society from being disrupted by a disaster or to limit its consequences, the National Security Strategy and the National Security Profile have been drawn up for the security regions. The safety regions also play an important role in combating dangerous viruses. A scenario has also been drawn up for the outbreak of a pandemic. A scenario of a serious flu epidemic assumes more than 14,000 deaths and 40 to 50,000 hospitalizations. The costs for this scenario are estimated at 5 billion euros. The COVID-19 virus is currently officially attributed 5,680 deaths. The number of hospital admissions is less than a quarter of the scenario of a serious flu outbreak. The

damage caused by the measures is at least EUR 150 billion. This is thirtyfold than estimated for a much more serious scenario. There is no justification for this.

174. Politics and the media justify this course of action with ethical arguments. As a monopolized truth it is communicated that a human life has no price. In this view, hundreds of billions more are more than justified, even if it means that life-time gains are very limited. In a submission in the Volkskrant, Professor Ira Helsloot of Radboud University concludes that the costs spent by policymakers is 5 million euros per year of life gained. Helsloot has also been publicly slaughtered in the media. It had been on the way for politicians and policymakers to support Ira Helsloot. This did not happen.

175. After all, making a trade-off between burden of disease and cost-effectiveness is a fixed policy. This is important to share the care and the available money fairly. The higher the burden of disease, the more we are willing to pay for health benefits. Health gains are expressed in costs per 'Quality Adjusted Life Years', or in other words: costs / QALY. The report “Cost-effectiveness in practice” of the Zorginstituut, a governmental body, describes how this happens, namely by choosing a different reference value for cost-effectiveness for three classes of disease burden.

Disease burden	Reference value for the maximum additional costs (€) per QALY
From 0.1 to 0.4	Up to € 20,000 per QALY
From 0.41 to 0.7	Up to € 50,000 per QALY
From 0.71 to 1.0	Up to € 80,000 per QALY

176. An extra year of life won may therefore cost a maximum of between 20 and 80,000 euros. Policy makers therefore spent up to 50 times as much. In fact, we are not extending human lives but death beds. The mayor Boris Palmer of Tübingen aptly put it:

“Everyone dies someday and the government cannot prevent that. The virus only kills sick old people on their death beds. It is a tradeoff between destroying the economy and the safety of these people. We can make an effort to protect at-risk groups, but the rest must be given the space to do their work. ”

After this statement, Palmer has been publicly maligned by the media and politicians. His family has been placed under surveillance after numerous threats.

177. A bitter observation is that society is plunged into an abyss under the pretext of saving the elderly. At the same time, nursing of the elderly has been kept to a minimum and non-emergency treatments have been suspended for months. Elderly people have also been deprived of contact with relatives for a long time due to the draconian rules. A large number of elderly people died prematurely as a result.

178. When drawing up the balance, the following picture is created:

♣ COVID-19 is no more dangerous than an average influenza virus and therefore does not pose a real threat to the disruption of society and public health. There is a false alarm;

Vorming Decision-making is flawed in every way. It is opaque, arbitrary, not transparent, without democratic credentials and cannot pass the test of the ECHR. Policy-makers reserve the right to extend the restrictions of freedom for days

to come;

♣ There are far-reaching restrictions on fundamental rights and privacy based on emergency regulations without a legal basis;

Doelen The goals set by the OMT and policy makers do not justify the continuation of the exceptional situation. Never before, not even in the 2017/18 epidemic with significantly greater consequences, has the whole of society been devoted to the capacity of care;

♣ The subsidiarity principle is not respected. It would have been sufficient to provide unenforceable advice to the public;

♣ Both from the comparison with countries that have not taken forced measures and from the WHO study, it follows that there is no ratio for the measures. This makes the continuation of the measures illegal;

♣ The consequences for the economy, health and society are catastrophic and unrelated to the objectives pursued. More people are likely to die as a result of the measures than as a result of COVID-19.

179. It is conceivable that the initial decision of 15 March 2020 was lawful based on the information available at the time. This will need to be investigated later. Continuing freedom-restricting measures while it should have been known not much later that COVID-19 is not a real threat is unlawful. All measures should have been lifted immediately.

180. Policy makers justify continued restrictions on freedom with possible disasters to come. Hundreds of thousands of people would die. This has failed to materialize. The audience is now kept in fear with the possibility of a second wave. On the basis of current knowledge about the virus, it is unlikely that this disaster will occur. In addition, previous experiences with the Mexican flu show that the experts - who now also determine policy - were wrong. The consequences of a lockdown, however, were known in advance.

181. Policy makers had made a choice between a possible and a certain disaster. Then there was chosen for a certain disaster that continues every day.

182. Kohn rightly warns that there is a danger that the aim of the measures is now not the protection of the population, but the credibility and acceptance of the government and government parties. After all, credibility is at stake. However, this cannot justify the continuation of a regime in which not only the population is subjected to the most senseless restrictions on their freedom of movement, but also at the expense of the lives and security of millions of inhabitants.

183. The media terror has seriously affected a balanced balance of interests. However, politicians should never allow emotion to guide their policies. It is her job to make responsible decisions that are legally responsible. The House of Representatives has also been unable to influence this process. This means that, as a last resort, it is now the job of the judiciary to correct this process by debating facts and the actual balancing of interests that should have taken place by policy-makers and politicians.

184. More and more judges worldwide are intervening in this unreal situation. For example, in a ruling on May 13, 2020, the Supreme Court of Wisconsin lifted all measures for the state of Wisconsin. The judgment contains the following recital that aptly describes the situation:

“The rule of law, and therefore the true liberty of the people, is threatened no less by a tyrannical judiciary than by a tyrannical executive or legislature. Today's decision may or may not be good policy, but it is not grounded in the law. ”

185. Conclusion: The measures must be lifted immediately and unconditionally.

Admissibility
Jurisdiction
Urgent interest

186. The urgent interest follows eo ipso from the above. The continuation of the measures causes further damage on a daily basis.

Offer of Evidence

187. Without wishing to assume any burden of proof that is not the legal responsibility of claimants, they offer proof of all their assertions by all legal means.