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Health for the Europeans, who cares?

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The European Union adapts, moves with the times, and evolves. It is these small steps, often made in response to events, that help the European Union to move forward and create the "common narrative" that has kept it solid for 74 years. For several years now, the EU has been working to strengthen its health policy. In other words, the European Union is gradually building a new common narrative: European health.

But in the gradual creation of this policy, what place is given to European citizens and their health? Through considerations that are at once temporal, justificatory, technical and imaginary, this paper offers readers an overview of the contours of a new health system for Europeans.

A UNION THAT PROTECTS, NOW? TEMPORAL CONSIDERATIONS

European health policy fits perfectly into this tradition, which is rooted in a political discourse in which the European Union is supposed to respond to crises. Indeed, it is currently working to breathe new life into its health policy, mainly to learn the lessons of the Covid-19 pandemic. This crisis has therefore become another stage in the construction of a European health policy.

Admittedly, the European Union's response to this health crisis was slow. A delay that was acknowledged and partly due to a certain reluctance on the part of the Member States when the winds of European solidarity began to blow. Unfortunately, at a time when unilateralism is no longer synonymous with power or relevance, there was little debate about intervention at the European level.

In the end, however, the European Union used its instruments and competences to ensure that it did not remain passive in the management of the Covid-19 health crisis. This was not a self-evident initiative, since the European Union's competence in health matters is limited to support and coordination, which made it difficult to develop a European action plan. Although Article 168 of the Treaty on the Functioning of the European Union (TFEU) does not seem to leave much room for manoeuvre, its interpretation means that European action can be taken in the event of a threat such as the Covid-19 pandemic, as long

as the Member States are prepared to act. The European institutions, balancing their roles against their systemic constraints, all participated in the efforts to tackle the emergency. Thus, despite the meagre nature of the European health legislative package, the European Union managed to adapt itself to provide a coherent response. On the one hand, in view of the organic dysfunctions revealed during the pandemic, it would be difficult not to see that certain epidemiological mechanisms and bodies failed the "stress test" constituted by the health crisis. On the other hand, it would be unreasonable to say that nothing was done when the means were not available. Moreover the [European Commission did in fact](#) identify a lack of preparation and planning, as well as inadequate structures, evidence of a European awareness of the need to invest in "just in case" solutions.

It is important to note that the European response to the Covid-19 pandemic, while significant, albeit belated, should be seen as a key piece of a work in progress rather than an ad hoc contribution. In fact, the European Union had laid the foundations of a European health policy long before the pandemic; indeed, a reference to the protection and preservation of workers' health was present from the Union's earliest days.^[1] However, it is primarily economic aspects that have shaped European health policy. The freedoms of movement and the internal market have led to the introduction, with the significant assistance of European judges, of the free movement of medicines, patients, healthcare, and health practitioners. These freedoms, in turn, have led

[1] Articles 46 and 55 of the ECSC Treaty of 1951; Articles 117 and 118 of the Treaty of Rome 1957; Articles 30 et seq. EURATOM 1957.

[2] Although, as mentioned, this competence is restricted. As far as specialist bodies are concerned, and by way of example [The European Medicines Agency \(EMA\)](#) and the [European Centre for Disease Prevention and Control \(ECDC\)](#).

to significant developments within the European Union, such as dedicated powers and resources.[2]

That said, European health policy still has a lot to offer. Not only was the European health response only a palliative solution, above all it was a stage in the history of European integration. While not an end in itself, the solutions to this crisis did demonstrate the need for a more comprehensive European health policy. Indeed, this is what Europe's dynamism in this area suggests: the Union is now seeking to address new health ambitions, to strengthen a "*Europe that protects*".[3]

WHY A UNION THAT PROTECTS? THE IMPORTANCE OF A EUROPEAN HEALTH POLICY

Health is a multifaceted issue that affects every aspect of life in Europe, which is why the European Union must focus on the "*titanic*" issue of the health of its citizens. Health is at once human, social, political, public, private, economic, scientific, digital and industrial. As a cross-cutting and multifaceted issue, health therefore has an impact on all European Union policies, whether exclusive or shared. In other words, health goes beyond traditional considerations and boundaries.

By way of example, and for obvious reasons it would be impossible to draw up an exhaustive list, health is an integral part of the free movement of persons, the internal market, the common agricultural policy, environmental policy, European research, and much more. It is precisely in this sense that the European Union has a role to play. It is precisely in this sense that Article 35 of the Charter of Fundamental Rights of the European Union states that "*a high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities*".

Secondly, health is universal; it is the most important thing for every human being. It is the concern of every one of us, and health is both collective and personal. It therefore concerns every European citizen, without distinction and on an equal footing, but also all European citizens as members of a wider political construction. Involving both fundamental[4] rights and the values of European integration, such as democracy, equality and

solidarity, health is of prime interest to every citizen. This is why health ties in perfectly with the European project: it brings people together. Short of succeeding in building a European[5] *democracies* accepted by all, or finding a consensus on what constitutes European identity and culture, health seems to offer a genuine community with a shared future. For these two reasons, health, which was hailed as the *leitmotif* of the future of European integration during the health crisis, is totally in line with what the European Union has always stood for.

Moreover, this project for a '*new approach to health*' for Europeans, involving a more integrated policy, is perfectly in line with the European Union's current objectives, such as resilience, industrial sovereignty, competitiveness, strategic autonomy, and innovation. Indeed, a more integrated health policy would undoubtedly be likely to engage the interest of more citizens with European issues. Since the pandemic, public opinion has been increasingly in favour of creating a Europe of health "*that does more*". [More than a third of Europeans consider](#) it a priority to establish a European strategy to deal with future pandemic crises, and almost as many (30%) see the development of a European health policy as a political priority. It is time to humanise the European project a little more and begin the next chapter in this historic construction of a health-based Europe.

HOW CAN A PROTECTIVE UNION BE CREATED? EUROPEAN OPPORTUNITIES

Since the pandemic, there has been a profusion of health-related news. But among this multitude of information, what are the most relevant European steps forward?

One new development that could be considered emblematic is the proposal to revise the Treaties. The European Parliament has called on the Heads of State and Government to set up a Convention to revise them. This call follows a report approved by the Committee on Constitutional Affairs on 25 October 2023. This report expresses the will for shared competence in the field of public health, a significant change in the field of European health policy.[6]

[3] N. De Grove-Valdeyron, « Une Union européenne de la santé, enfin ? », *Revue des affaires européennes* – L.E.A., *Strada lex*, N°2021/2 p.277.

[4] These include, but are not limited to: human dignity, right to life, right to personal integrity, prohibition of inhuman or degrading treatment, respect for private and family life, protection of personal data, equality, non-discrimination, confidentiality, etc. [Charter of Fundamental Rights of the European Union](#), 326 JOURNÉE (2012).

[5] As the "*white pool*" of 1952 might have suggested, the [European Community of Health project](#) by P. RIBÉYRE.

[6] European Parliament resolution of 22 November 2023 on the European Parliament's plans for revision of the Treaties (2022/2051(INI)), P9_TA(2023)0427.

However, one major point of caution must be expressed at this stage: the success of this revision will depend on the goodwill of the Member States. This is an essential point, and one that does not appear likely to have a positive outcome in the short term, given the current geopolitical and economic context. While a simple majority vote is all that is required, a revision at this stage seems more idealistic than realistic.

In the event of a postponement of the revision, it might already be possible to temper any disappointment with Europe's capacity to adapt. If there is one central contribution that European history has made, it is the demonstration that experience can prevail over legislative restrictions. The institutions have regularly demonstrated their ability to overcome systemic boundaries and take advantage of the grey areas of their competences, even the most tenuous.

Furthermore, if the granting of shared competence in public health appears to be a sacrifice in terms of national sovereignty, there remains the possibility of introducing, in [article 168§4 of the Treaty on the Functioning of the European Union](#), the fight against major health scourges. Since the management of pandemics would become a common security issue, it would fall within the scope of shared competences. Admittedly, shared competence only in times of crisis may be seen as little consolation in the face of the ambitions proposed by the MEPs, but this point should remain open to reflection, especially in the event of national reticence or timidity. Despite these considerations, this initiative remains one of the main points to keep an eye on. If it does not succeed, the field of possibilities remains open for healthcare. Secondly, and closely linked to this proposal to revise the Treaties, attention must be paid to the results [of the Conference on the future of Europe](#). As the first participatory democratic exercise of this scale, it has helped to refocus European integration on Europe's citizens. Giving them a more direct voice was the first step, the second being to respect their wishes, and this is what the institutions were quick to implement. The European Union has introduced four proposals on health. Not only is the European Union asserting its determination to develop a preventive and not just curative health policy, thereby adopting a more global definition of health – thereby drawing closer to that of the [World Health Organisation](#) – but it states that it wants to

establish a "*right to health*". It remains to be seen what the practical consequences of this commitment will be.

Already, developments in the deployment of the single healthcare concept ([One Health](#)) seem to be generating a certain amount of enthusiasm. From an organic point of view, there have been some notable developments in the European health data area ([EHDS](#)), the European Health Emergency Preparedness and Response Authority ([HERA](#)) or the results of the health programme ([EU4Health](#)).

If these points have one thing in common, it is that they have more to do with health administration - and by extension an organisational prism - than a creative one. The European Union is seeking to act as a catalyst for new issues, often conceived as a matter of urgency. Although significant, these innovations sometimes leave the impression that an *ersatz* European health policy is being developed.

IDEAL HEALTH SYSTEM FOR EUROPEANS? FOOD FOR THOUGHT

Aware that health can do much more intellectually than it can institutionally, we need to look at what can be seen as the core of a redesigned European health policy capable of creating new tools for citizens. The exercise means leaving aside certain considerations, perhaps wrongly, to focus on a possible future, from a practical point of view. How can the European Union look after the health of its citizens, and not just administer it? A redesigned health system that is citizen-centred, holistic, operational, inclusive, and comprehensive in its defensive and preventive dimensions. These are all features that could reinforce the horizon of a European health *affectio societatis*.

The first avenue to explore would be the - vital, to say the least - development of the concepts of health democracy, the patient as citizen and the patient as actor. The European Union should increase the inclusion of its citizens in the process of drawing up health standards. Through these frequent consultations and discussions, Europeans would be recognised as patient-citizens and patient-players, now in control of their own health. This process of greater inclusion could, in time, lead to a Europe-wide [concept of health democracy](#). On this point, the European Union is

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certainly in step with this trend, but there is still room for it to grow. The development of European health democracy that includes citizens as actors in their own healthcare would provide at least a partial response to the lack of information in terms of health, as well as to the general mistrust of healthcare measures. Indeed, while in purely technical areas this inclusion would have few positive repercussions, health seems to be the ideal area in which experimentation could be privileged.

The second area for reflection might be to reconsider the influence that the European Union wishes to have on the international stage, mainly in the field of research and innovation. Assessing the desirability of pooling European knowledge and resources should not be ruled out as a major challenge for the European Union's position and influence on third countries. The beginnings of such a project can already be seen in the Joint Research Centre (JRC) and Horizon Europe, but it would benefit from a stronger foundation.

The third area for consideration would be the creation of a think-tank on European health given new global considerations such as bio-law, digital technology and artificial intelligence. There are still many unanswered questions that need to be explored in greater depth. What does the European Union want for the health of its citizens? What are the limits and implications of this 'right to health'? Is it a claim and can it be enforced? How can optimal health be guaranteed? These are all questions that remain unanswered for the time being, and their absence

undermines any possibility of a comprehensive plan for the health of the citizens of Europe.

Finally, creating a new approach to health is clearly in the interests of the citizen, but what would be achieved if the challenge of clarity were not met? In terms of public health, meeting this requirement would be the last and most important avenue to explore. Making health policy accessible to European citizens, offering them education, would bring them closer to the project of European integration. In response to the challenge of clarity, the European Union should consider creating a platform offering a simplified map of its health actors and their interactions. This would help to demonstrate the extent of its activities in this field, which are clearly not yet perceived by the public. Secondly, why not propose the creation of a direct interlocutor to represent European health, especially in times of health crises? Following the example of the role played by chief negotiator Michel Barnier during Brexit, this interlocutor would give a personal face to European health, which would then be more accessible to Europeans.

One thing is certain: the next developments in public health will be closely watched, in the hope that the European Union will take up the challenge of innovation through the prism of citizenship.

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