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*Foreign and European Affairs*

29 July 2020

H.E. Ursula von der Leyen

President

European Commission

The Standing Foreign and European Affairs Committee, meeting on 15 July 2020, discussed the **Proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Union's action in the field of health for the period 2021-2027 and repealing Regulation (EU) No 282/2014 ("EU4Health Programme") – COM (2020) 405.**

The Committee noted that to help repair the economic and social damage brought by the coronavirus pandemic, kick-start European recovery, and protect and create jobs, the European Commission proposed on 26 May a major recovery plan for Europe. The bulk of the proposed recovery measures will be powered by a new temporary recovery instrument 'Next Generation EU' built on three pillars: (i) instruments to support Member State efforts to recover, repair and emerge stronger from the crisis; (ii) measures to boost private investment and support ailing companies; and (iii) the reinforcement of key EU programmes to draw the lessons of the crisis and make the single market stronger and more resilient and accelerate the twin green and digital transitions, the new EU4Health programme is part of the third pillar.

The Committee, acting in its scrutiny function, does not question the distribution of competences conferred by the EU treaties and notes that under Article 168 of the Treaty on the Functioning of the European Union, public health is a competence shared between the European Union and EU countries. While EU countries define and deliver their national health services and medical care, the EU seeks to complement national policies by means of its Health Strategy.

The Foreign and European Affairs Committee, after taking into consideration the proposal on establishing the EU4Health Programme, notes that:

1. Article 5.1 of the Treaty of the European Union states that “the limits of Union competences are governed by the principle of conferral. The use of Union competences is governed by the principles of subsidiarity and proportionality.” Article 5.3 of the same Treaty states that “under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at central level or at regional and local level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level.”
2. “EU4Health” is the EU’s response to the COVID-19 pandemic, which has had a major impact on medical and healthcare staff, patients and health systems across the European Union and worldwide. The general objectives of the programme include to protect people in the Union from serious cross-border threats to health, increase the availability in the Union of medicines, medical devices and other crisis relevant products, and to strengthen health systems and the healthcare workforce;
3. Article 6(a) of the Treaty on the Functioning of the European Union states that “The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States.” One of the areas of such action at European level shall be the protection and improvement of human health;
4. The legal basis of the proposal is Article 168(5) of the Treaty on the Functioning of the European Union, which states that “the European Parliament and the Council, acting in accordance with the ordinary legislative procedure and after consulting the Economic and Social Committee and the Committee of the Regions, may also adopt incentive measures designed to protect and improve human health and in particular to combat the major cross-border health scourges, measures concerning monitoring, early warning of and combating serious cross-border threats to health, and measures which have as their direct objective the protection of public health regarding tobacco and the abuse of alcohol, excluding any harmonisation of the laws and regulations of the Member States”;

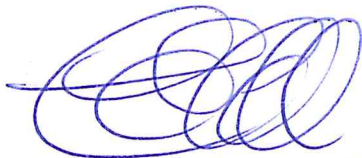
5. While Member States are responsible for their health policies, the experience gained during the COVID-19 crisis has shown the need to significantly strengthen the EU's capacity to respond effectively to major health threats. The European Union needs to give higher priority to health, to have health systems ready to provide state-of-the-art care and to be prepared to deal with epidemics and other unpredictable health threats, in line with the International Health Regulations (IHR);
6. Given the measures envisaged under the "EU4Health Programme", the objectives cannot be sufficiently achieved by the Member States alone but rather can better be achieved at Union level, and therefore the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union; and
7. The "EU4Health" Programme will be implemented with full respect to the responsibilities of the Member States, for the definition of their health policy and for the organisation and delivery of health services and medical care.

The Foreign and European Affairs Committee is thus of the opinion that In accordance with the principle of proportionality, this proposal does not go beyond what is necessary to achieve its goals. The proposal seeks to increase participation of Member States in the actions it supports by lowering the barriers to participation as much as possible. It also provides for a reduction of administrative burden on the Union and on the national authorities while allowing the Commission to exercise its responsibility for implementing the Union budget.

Therefore, whilst the Foreign and European Affairs Committee accepts that the proposal for a Regulation of the European Parliament and of the Council on the establishment of a Programme for the Union's action in the field of health for the period 2021-2027 and repealing Regulation (EU) No 282/2014 ("EU4Health Programme") is in accordance with the principle of subsidiarity established in the current Treaty of the European Union, the Committee feels that the proposal raises concerns on the grounds that the EU may be encroaching on the area of responsibility of Member States, whose role cannot be reduced to simply implementing the EU4Health programme. The EU's role is vital in tackling cross-border health threats, making medicines available and affordable, and strengthening health systems and the COVID-19 pandemic has shown that better coordination and cooperation are needed between EU Member States in times of crisis. The Committee supports the general objectives of the EU4Health programme, which will allow the EU to have stronger tools to coordinate action with

Member States in preparing and managing crises, as well as improving the overall functioning and performance of EU health systems.

By way of this opinion the Foreign and European Affairs Committee emphasises that the national authorities should retain their role in devising their health policies



**Dr Emanuel Mallia**

**Chairperson**

**Standing Committee on Foreign and European Affairs**

**House of Representatives Malta**

**Parliament of Malta**