



The Covid-19 Pandemic:

S&D recovery plan for democracy & fundamental rights

As the world labours to slow the Covid-19 pandemic by using major and restrictive social measures, Socialists and Democrats believe that we should look closely at how these measures affect individuals in our societies, including the most vulnerable. At the same time, we must uphold the fundamental rights of all. Civil liberties, justice and home affairs are at the heart of citizens' political concerns, and we call upon governments and the European Union to protect the rights of all. We recognise that the speed of the spread of the pandemic led to many decisions having to be taken at unprecedented speed. However, some measures were introduced without proper and full evaluation and there is still time to reconsider some paths taken in order to avoid unintended consequences.

Upholding Democracy and the Rule of Law during the pandemic

- We must respect national and EU law and international standards even in a time of crisis, and, in particular, the values of respect for human dignity, freedom, democracy, equality, the rule of law and human rights, enshrined in Article 2 of the TEU
- Any emergency measure – such as a restriction on the freedom of movement or assembly – must be necessary and justified, strictly proportionate to its aim, allow for democratic scrutiny, and be temporary.
- Evaluations of the national emergency measures by the European Commission must produce clear conclusions and any necessary remedial action must be taken swiftly.
- The Commission and the Council must finally make effective use of Article 7 TEU (for example in Hungary and Poland). Their continued failure to do so continues

to undermine the integrity of common European values, mutual trust, and the credibility of the Union as a whole.

- We urge the Council to unblock the proposal for a Regulation on the protection of the Union's budget in case of generalised deficiencies as regards the rule of law. We must have a real and meaningful EU mechanism on democracy, the rule of law and fundamental rights in place equipped with proper sanctions, including the possibility to suspend payments from the EU budget.
- The crisis must not be used to curtail free press and stifle freedom of expression for journalists. We urge the Commission to develop a fully-fledged monitoring mechanism on media freedom, beyond the framework of the new Rule of Law mechanism, which will introduce clear standards and benchmarks at EU level, including through legislation if necessary.

Restoring freedom of movement and Schengen as soon as possible

- We remain committed to a Schengen area that allows for unrestricted travel within its territory for over 400 million people, of priceless value for persons and businesses alike, and cherished by EU citizens.
- Against that backdrop, we see an urgent need to return to a fully functioning Schengen area without internal border control; while we support the public health measures aiming to limit the spread of COVID-19 through physical distancing, we are not convinced that border control is an appropriate means to enforce such measures.
- We emphasise that, in accordance with Union law, all measures taken by Member States must be necessary, coordinated, proportionate and temporary. Internal border controls must be the exception, a measure of last resort, based on objective criteria, and not used as a political gimmick. They must be likely to remedy the public health concern, meaning that internal border controls or other measures restricting travel should not be introduced or prolonged until a careful evaluation of the effectiveness of such measures to address the public health issue has been undertaken.
- Internal border controls reintroduced under the Schengen Borders Code, should not and cannot jeopardise the free movement of persons, goods and services, which are basic rights provided to all European Citizens under the Union's founding Treaties. In that context, we insist that Member States must lift the numerous obstacles encountered by many cross-border workers within the Schengen area since the outbreak of the pandemic.

- We call on the Commission to take a more pro-active role in coordinating Member State action on the lifting of internal border controls and other travel restrictions, and to make full use of its powers to monitor and control the practical way that internal border controls have been implemented to ensure respect for Union law.
- We call, in the medium to longer term, for a significant update of the rules of the Schengen Borders Code and the Schengen Evaluation Mechanism. We call upon the Commission to analyse strategically the current situation and to propose appropriate measures to help ensure a less nationalistic, more coordinated, and more coherent EU response to possible future crises.

Protecting personal data and privacy during the pandemic

- We will never allow exceptional circumstances or a declaration of a state of emergency to invalidate or suspend fundamental rights, such as protection of personal data and privacy.
- Any limitations that are allowed under the Charter of Fundamental Rights and relevant data protection and privacy laws must be based upon a law, be proportionate and necessary, allow for access to a remedy and be limited in time.
- We demand that data protection and privacy by design are at the core of any digital platforms, tools or applications that are developed and used to contain, control or gather information on the pandemic. It is essential as far as these platforms, tools and applications are concerned, that the principle of data minimisation is respected, and the prohibition of general surveillance is upheld.
- We insist that the solutions deployed follow these established practices. The uptake of any solutions, including the “tracing apps” that are made available directly for use by individuals, are truly voluntary and, where possible, only anonymous data is gathered. Any data gathered and used shall be kept decentralised on the device itself ("on the edge") and not in any centralised database. The apps must have no commercial application and none of the data must be allowed to be used neither for commercial nor for law enforcement purposes.
- We call for full transparency of the algorithms used, full knowledge of what data is gathered and how, for which individual purposes the data is used, who has access to it, and for how long the data is kept.
- Such applications must be available only during the pandemic, and not run nor be usable during normal times.

Protecting the right to asylum and the lives of migrants during the pandemic

- We call for a fundamental overhaul of EU asylum rules towards a system based on the individual right to asylum and solidarity by means of relocation between Member States.
- We must ensure continued access to the EU territory and asylum procedures for those seeking international protection.
- We demand that Member States take the necessary measures to protect migrants from Covid-19, including by ensuring adequate accommodation for them and/or relocating them from the Member States of first arrival. Detention should only be considered as a last resort.
- We must have a new, more sustainable approach to Search and Rescue based on existing international law, replacing existing ad hoc solutions with an enforceable mechanism for disembarkation of migrants in a place of safety, facilitating onward relocation, and increased funding for the purpose of more and better coordinated Search and Rescue operations.

Protecting the most vulnerable during the pandemic

- We must be alert to quarantine measures exposing victims of domestic violence, especially children and women, to a much greater risk, with first statistics already showing an increase of cases occurring. We call for innovative solutions for victims and witnesses, who are often children, in cases of violence, as well as to maintain human and financial support in this field. Authorities must not forget the vulnerable groups who are less visible in our societies such as trafficked people and children living in poverty.
- We must tackle overcrowded prisons in the EU, and the poor sanitary conditions that they can cause for both the prisoners and those who work there. We call for serious consideration of early release or adjustment of conditions of imprisonment, especially for minor offences or for those near to the end of their sentence and for pre-trial detention to be as limited as much as possible. Family visits should be maintained in a safe way as much as possible.
- We abhor racism, xenophobia and intolerance linked with Covid-19. We call for all policies on the pandemic to be attentive to the effects they may have on the more vulnerable, such as the switch to online education (which could, for example, disproportionately affect young Roma and travellers) and strict confinement

measures that may, for example, be difficult to implement in some Roma settlements.

- We call for all authorities to bear in mind the specific issues facing LGBTQI+ people, older people and people with disabilities, such as access to healthcare during the pandemic. Member States must not discriminate against any groups. We insist that policies be developed on how to deal better in the future with serious and multiple health risks associated with isolation, for example, but not limited to, the case of older people.

Now, as we look to the future and hope to move towards a world where the pandemic is receding and physical distancing wanes, we must ensure that across the EU our treasured fundamental rights and democracies are protected. We call for a vigorous and comprehensive recovery plan based on the principles of solidarity, cooperation and unity of action, which is aimed at ensuring protection of the most vulnerable people. The S&D demands that any existing measures, whether they affect the privacy of people or re-create borders between states, must be removed as soon as is safely possible. We will remain attentive to the changes to society that the aftermath of the pandemic will inevitably bring in the coming months and years. The S&D will fight to ensure that these changes will not be detrimental to the most vulnerable within our society and to those who are seeking asylum on our continent.