

Vulnerability and Resilience in Crisis – Ethical Criteria for decisions in a pandemic

OPINION

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Summary and Recommendations

Introduction: Structural conflicts and necessary trade-offs

- 1) The COVID-19 pandemic forced and is forcing societies around the world to make sometimes far-reaching considerations and prioritizations that not only have to be politically accounted for, but also ethically justified. It has shaken our trust in the ability to plan life and confronts us

with the vulnerability and finiteness of our existence. The consequences - political, health-related, social, economic, cultural - extend to our relationship with ourselves and call into question the sustainability of our way of life.

- 2) Although the consequences of the pandemic and how to deal with them affect everyone, they do not affect everyone in the same way. The risks of infection, severe disease progression and death vary with physiological vulnerability (due to age or previous illness) and the risk of exposure (particularly high, for example, in the case of medical staff). The burden that people have to bear as a result of infection control measures also weighs differently depending on biographical characteristics, personal and professional situation, the degree of vulnerability and the resources of resilience. The pandemic has not only revealed significantly increased vulnerabilities in precarious living, housing and working conditions, it has also exacerbated these vulnerabilities again.
- 3) The German Ethics Council has already published a series of shorter publications on ethical Take a stand on individual questions of dealing with the pandemic. With the present extensive Opinion he now wants to contribute to the development of a long-term strategy by ethical Orientation is given for difficult weighing processes that are unavoidable when decisions are made on measures to deal with this or future pandemic-related crises. Two important poles around which these considerations revolve are the pole of freedom and that of health protection. Risk-ethical priority and subordinate relationships must be formulated that allow good reasons to be decided in which cases when fighting pandemics freedom should take a back seat to health protection – or vice versa.

Current status: review, experiences and challenges

- 4) The pandemic outbreak of the multiorgan infectious disease COVID-19, which is mainly transmitted by aerosols and is caused by the coronavirus SARS-CoV-2, which was discovered in 2019, is progressing in regionally clearly recognizable waves. In Germany, this dynamic of the pandemic is usually presented on the basis of the 7-day incidence of laboratory-diagnosed and registered new infections per 100,000 inhabitants. Unlike other epidemiological indicators such as hospitalization incidence, intensive care bed occupancy or mortality, it allows a timely depiction of the infection process.
- 5) Risk analyzes by the responsible bodies and authorities in Germany have been dealing with the possibility of a pandemic caused by corona viruses since 2008. However, there are doubts as to whether these analyzes have been adequately processed by politicians.
- 6) A lack of knowledge about the new pathogen and the dynamics of the corona crisis caused fear and concern among the population and among the population in the initial alarm phase politicians. Many tracked daily statistics of incidences, deaths, the reproductive factor and the utilization of hospitals and intensive care units. The measures taken in this phase were discussed and questioned intensively, but received a lot of support and were also classified as justified overall by the German Ethics Council.
- 7) Immediately after the Bundestag decided on March 25, 2020 that an “epidemic Situation of national importance”, extensive contacts and

Entry restrictions and the closure of numerous shops and public ones

Facilities such as day-care centers, (university) schools and religious meeting places.

At the same time, so-called basic protective measures were introduced, which combine keeping your distance from other people, washing your hands and hygiene when coughing and sneezing, as well as wearing protective masks. These were later supplemented by recommendations for ventilation and (after its introduction in June 2020) for the use of the Corona-Warn-App ("AHA+L+A formula").

- 8) After a phase with low incidences in the summer of 2020, a second wave developed from October 2020, which peaked in December 2020. Been again Contact restrictions and closures in education, culture and sports as well as in retail and gastronomy imposed. Around the turn of the year, the first vaccines were approved in the European Union and the vaccination campaign began. In the first few months of 2021, the incidence value initially fell, but the third wave built up as early as the beginning of March - among other things as a result of the rapid spread of the alpha virus variant B.1.1.7.
- 9) The third wave ended in April 2021 and the number of infections remained stable and low throughout the summer. After the prioritization of vaccinations was lifted in June, everyone who wanted to be vaccinated could get vaccinated. However, because the vaccination rate fell short of expectations, warnings of a "fourth wave" that could hit Germany in the winter months increased. On October 22, 2021, the 7-day incidence reached the 100 mark, then increased further to over 400 within a month, more than doubling the previous peak recorded in December 2020.
- 10) At the end of November 2021, parallel to the start of the booster vaccination campaign, a 3G rule was decreed in local public transport and in the workplace, according to which either proof of vaccination or recovery or the current certificate of a negative corona test (antigen or rapid test) must be presented at any time. 2G rules were even introduced in many other areas of public life, so that the unvaccinated no longer had access to various leisure activities and services. Despite these and all other measures, the fourth wave of the pandemic was immediately followed by the fifth. The main reason for this was the emergence of a new, much more contagious virus variant called omicron, which became dominant in early January 2022. Section shows milder disease progression. As a result, there is increased discussion as to which pandemic protection measures are (still) appropriate.
- 11) All indicators currently suggest that definitive eradication of the virus will not be possible. The future development depends, among other things, on how well the contact tracing and the control of contact-restricting measures succeed in the event of renewed waves, how quickly the virus variants are reacted to and how intelligently the long-term effects are reacted to. It can be expected that the virus will become endemic in Germany and will only be one of many pathogens in the future.
- 12) In order to achieve a controllable endemic situation, which is characterized by a recurring but spatially limited occurrence of the pathogen, comprehensive vaccination of the population is necessary - with surviving infections also counting Strengthen immune protection. However, it is not enough to look at the fight against the pandemic only in the German context. It can only be successful in the long term if we succeed

in slowing down the emergence of new virus variants worldwide. The more infections occur worldwide, the higher the probability of virus variant formation. Therefore, it can undermine the success of the measures taken in Germany if elsewhere high infection numbers are available that can trigger further global waves of disease by promoting the emergence of new, contagious virus variants.

- 13) In order to curb the spread of the pandemic, the people of this country
To protect diseases and public health care from the risk of
Various protective measures were taken during the course of the COVID-19 pandemic to prevent excessive demands. They were more severe during the first wave of infection than in subsequent waves. The political decisions to fight the pandemic were made under conditions of great scientific uncertainty, especially at the beginning but also in later phases of the corona crisis. In addition to the current state of knowledge on SARS-CoV-2 and the disease it causes, this also applies to the desired and undesirable effects and side effects of protective measures.
- 14) In addition to the basic protection measures, the central pandemic protection measures include movement and contact restrictions aimed at curbing the spread of the virus. On the one hand, a distinction must be made between direct restrictions on movement and meeting opportunities, such as those imposed during a strict lockdown in the form of curfews, and on the other hand, the mere restriction of movement and contact opportunities through the closure of shops, restaurants, cultural and cultural events Sports facilities, educational and other facilities - the so-called shutdown. In Germany - unlike in many other countries - there were largely no curfews.
- 15) The consequences of the prescribed protective measures for communal accommodation such as long-term care residential facilities and the
Integration assistance, where particularly vulnerable people live together without being able to effectively keep their distance. General visiting bans and curfews were issued in these facilities early in the pandemic. After public criticism of the situation of many people who depend on professional care, the federal states modified the infection protection ordinances in May 2020 in order to prevent the protective measures in clinics, nursing homes, senior and disabled facilities from leading to the complete social isolation of those cared for there.
- 16) Decisions about the various types of contact restriction measures could not be delayed until there was reliable knowledge about their effectiveness and their indirect psychological, social and economic consequences for individuals or groups of people. Given the novelty of the threat posed by the pandemic, this was unavoidable. However, it is criticized that no systematic
Data was collected on the use of contact restrictions, so that their consequences and side effects are still only insufficiently known.
- 17) Test procedures are used to detect a SARS-CoV-2 infection when symptoms of the disease occur, to identify asymptomatic virus carriers and to check the extent to which infectiousness still exists after an illness. The use of these methods starts on two levels: On an individual level, infected people should be identified early, isolated, medical monitoring and treatment should be carried out. Chains of infection are to be identified and broken at the population level in order to contain the infection process.

- 18) Antigen tests ("rapid tests") in particular were widely used to reduce the risk of infection in direct contact between people. With the exception of a phase from October to November 2021, antigen tests were available to everyone in Germany free of charge as so-called citizen tests. With an amendment to the Infection Protection Act of November 24, 2021, all unvaccinated employees were obliged to present a daily negative test certificate ("3G at the workplace") when entering the workplace.
- 19) In order to be able to identify and interrupt chains of infection, an effective Tracking of contacts that infected people have had is necessary. In Germany, this task is essentially performed by the health authorities. the Tracing contact persons is very labour-intensive and time-consuming, so that in some phases of the pandemic, the specialist staff of the health authorities had to be supported by employees from other administrative areas, members of the Bundeswehr and students. Nevertheless, contact tracing could sometimes not be carried out effectively in the case of high incidences.
- 20) The ordering of home isolation or quarantine aims to prevent the spread of Preventing SARS-CoV-2 by preventing contact with infected people. Home isolation is ordered by the health department for people who have been diagnosed with SARSCoV-2 infection by a positive PCR test. Quarantine measures, on the other hand, affect contact persons who are only suspected of being infected. So-called collective quarantine measures, some of which were imposed in the event of outbreaks in clinics, homes, assisted living communities or collective accommodation, should be assessed critically.
- 21) Thanks to enormous financial investments from both public and private sources, more efficient study protocols and accelerated approval processes, the development time for vaccines against COVID-19 has been significantly reduced. the Vaccine development was not only rapid but also exceptionally successful. the Efficacy of the first approved vaccines exceeded the average efficacy of flu vaccines significantly. Even if the available vaccines protect less well against infections with the virus variants that appeared later, they still protect against severe disease progression, especially after receiving a booster vaccination.
- 22) During the first half of 2021, the distribution of scarce vaccines was based on a prioritization that gave the highest priority to protecting those at high risk of severe and fatal COVID-19. The implementation was criticized, among other things, for the fact that there were sometimes significant delays in vaccinating people who live in assisted living or who are cared for by integration assistance services compared to other groups of people with the same priority level. Similar grievances were also warned about homeless people and refugees in communal accommodation.
- 23) The target vaccination rates recommended by the Robert Koch Institute for Germany have not been reached by the end of January 2022. After the initial shortage of vaccines and also the subsequent phase of the particular through Difficulties in making appointments due to the difficult access to COVID-19 vaccination have been overcome, the main obstacle on the way to higher vaccination rates is likely to be the lack of vaccination willingness. According to surveys, safety concerns are the main reason

against vaccination for both those who refuse and those who are generally not vaccinated. In addition, the vaccination is not considered necessary because the risk associated with COVID-19 is perceived as low. Contributed to the uncertainty in parts of the Population continues to support the increasing reports of symptomatic cases of infection despite vaccination (so-called vaccination breakthroughs).

- 24) As early as summer 2021, given the insufficient voluntary willingness to vaccinate after the initial vaccine shortage had been overcome, a public debate began as early as the summer of 2021 about the means and to what extent pressure or coercion could be exerted on the unvaccinated. The main focus was on the perspective of the unvaccinated when, for example, the legitimacy of restrictions on their rights was discussed. The extent to which the rights of the group of vaccinated people, which was already much larger at the time, would be restricted if the pandemic continued in Germany, was rarely the subject of public attention. After the German Ethics Council had spoken out against a legally anchored vaccination requirement at the beginning of the vaccination campaign, it recommended on 11. people are cared for. For a month now, the Council has been pleading – with four dissenting votes – for an extension of compulsory vaccination beyond the area-related compulsory vaccination already decided by the German Bundestag. The majority is in favor of general compulsory vaccination for adults, a minority for compulsory vaccination for adults People who are at increased risk of developing a severe disease.
- 25) The personal risk of becoming infected with SARS-CoV-2 depends primarily on the number of contact persons and the frequency and intensity of these direct contacts, but also on how many contacts these other persons have with third parties. In most cases, a SARS-CoV-2 infection - especially in younger people without previous illnesses - is mild or even symptom-free and, according to the current state of knowledge, does not result in any long-term health restrictions. However, the risk of a severe course of the disease increases with age. In addition, certain Previous illnesses, but also factors such as obesity and smoking increase the risk of a serious illness.
- 26) Depending on the patient group considered, very different statements are made on the frequency of the occurrence of long-term health problems after an acute SARS-CoV-2 infection. One speaks of long COVID when characteristic symptoms (such as fatigue, exhaustion, shortness of breath, concentration and memory problems) occur in the interval between four and 12 weeks after infection. The post-COVID syndrome, on the other hand, means that symptoms persist for more than 12 weeks after an acute infection. Many important questions about long or post COVID cannot yet be answered reliably and comprehensively with the current state of research.
- 27) The health risks of a SARS-CoV-2 infection are particularly high for people in inpatient care. One of the reasons that long-term care facilities play a critical role in the spread of infection is that they are part of a wide social network in which chains of infection can propagate. In addition, people who require long-term care often have additional risk factors for serious illnesses, such as certain previous illnesses. Socioeconomic characteristics also increase the risk of severe COVID-19 progression. This applies, for example, to people who receive

unemployment benefits or work in low-wage jobs with social benefits, as well as migrant workers (including many care workers) and refugees.

- 28) During the course of the pandemic, prevention, therapy and rehabilitation services were repeatedly reduced to reduce the risk of infection within medical facilities and to free up capacity for the treatment of people suffering from COVID-19. Despite the need for clinical treatment due to COVID-19, there were significantly fewer hospital treatments and operations in 2020 than in the previous year. Doctors in private practice were more reluctant to refer patients to hospitals, and some people who actually needed treatment refrained from making use of basic medical care or hospital services. The whole
Extent of somatic health impairments due to limitations of
health care during the Corona crisis will only become apparent in the coming years.
- 29) The COVID-19 pandemic and the measures taken to contain it have led to psychological demands and stress, some of which are considerable. These are the result of a complex interaction of personal, life situation and environmental characteristics as well as related development potentials and vulnerabilities. According to studies
uncertainties and fears among the adult German population during the pandemic. Women were more affected by such stress than men, and the psychosocial health of older people proved to be more stable than that of younger people. The latter, of course, does not apply to lonely older people with a lack of social support or residents of long-term care and disability facilities who have been found to have deteriorating cognition and emotional well-being. Children, young people and students were also significantly more affected by mental disorders, especially anxiety and depression, during the pandemic.
- 30) The pandemic and its consequences and side effects are also affecting our society
Institutions - especially in the social, health and educational sectors - face enormous challenges. In addition to long-term care facilities and assistance for the disabled, this also applies to social services for other particularly vulnerable groups such as child and youth welfare services, social psychiatry and homelessness assistance. The crisis resilience of
In a pandemic, it proves how well it succeeds through appropriate institutions
Adjustments to reconcile infection protection with the fulfillment of their respective social mission. It is also relevant to what extent an aggravation of social disadvantages can be avoided.
- 31) The Corona crisis has shown that even the German healthcare system, which is one of the most efficient and costly in the world overall, was not adequately prepared for the challenges and peak loads that arise during a pandemic. This was exemplified in the public health service, the municipal pillar of which is the health authorities. At the peak of the COVID-19 pandemic, intensive care medicine in Germany was at its performance limit, although Germany compared to other countries in Europe and even more so when it came to intensive care medicine
bed capacity takes a leading position. After all, however, it is thanks to this good
Equipment, the infection protection policy and the precautions taken in the
Health care managed to avoid extreme shortage situations that could have led to triage decisions.

- 32) A significant problem during the pandemic was the staffing situation in the healthcare system, especially in the area of nursing. The employees were exposed to structural, psychological and physical stress as well as multiple stressors. A particular psychological problem arose from the restrictions on end-of-life care during the first wave of the pandemic. The "lonely death" was not only extremely stressful for the dying person and their relatives. For the employees in clinics and nursing homes, too, it was almost unbearable to have to enforce contact regulations and witness the suffering of those affected. In particular, the term Pflexit is now used with regard to the personnel consequences of nursing staff in the intensive care units,
- 33) Overall, it has been shown that the German healthcare system was not adequately prepared for the COVID-19 pandemic and that the intensive care units in particular were temporarily closed
reached their breaking point, but the necessary adjustments were so successful that the medical care of those suffering from COVID-19 could be adequately secured at any time during the pandemic. On the other hand, there were deficiencies in health care for many other groups of people, which extend beyond the pandemic and unfortunately - as the example of children and young people shows - can particularly affect people who had to make great sacrifices in the course of the pandemic.
- 34) Educational institutions from day-care centers to universities were on the one hand Crisis situations such as the COVID-19 pandemic were not prepared and, on the other hand, were particularly affected by the contact restriction measures taken to combat them. A central problem in the switch to distance learning was the deficits in German schools in terms of digitization, which were considerable in an international comparison. Surveys of parents on the consequences of the school closures caused by the pandemic show that these were associated with considerable stress on the one hand, but also with positive experiences on the other. The greatest burdens were found for single parents with low income Educational qualification and for people with children of kindergarten and primary school age. Children are among the educational losers during the pandemic socio-economically disadvantaged parents, children and young people with a migration background, in refugee accommodation and with disabilities.
- 35) Colleges and universities were also largely closed early in the pandemic. Starting in the 2020 summer semester, students in Germany will study digitally for three semesters. Compared to schools, colleges and universities a head start in digital teaching. Technically and administratively Colleges and universities have advantages over schools because of the university autonomy and their relative budget sovereignty. Overall, it has been shown that the hierarchical and bureaucratic structure of the school system, in contrast to the autonomous one Self-governing structure of the higher education system caused less adaptability in the crisis.
- 36) During the pandemic, the freedom, development opportunities and social relationships of children, adolescents and young adults were massively impaired. They were slowed down in important phases of their personality development and their education, which are usually

characterized by steps into independence and personal responsibility as well as diverse social contacts and experiences and can only be made up for with considerable effort.

- 37) The German economy has so far proven to be relatively stable compared to other countries, as evidenced by good economic and labor market data. Despite massive political countermeasures, the Corona crisis has also caused considerable economic damage in certain sectors (e.g. event management, gastronomy and tourism) or for specific forms of employment (e.g. solo self-employed) in Germany. The countermeasures ranged from state company participations, loan guarantees and tax breaks to industry-related corona aid and extended payments of short-time work benefits. They have alleviated some hardships, put a considerable strain on public budgets for years to come and have caused national debt to rise sharply.
- 38) In view of the supposed conflict of goals between a flourishing economy and effective health protection, which was occasionally invoked at the beginning of the pandemic, it can be said that there can be no question of a simple either-or. It clearly falls short to assert a strict opposition between economic and health interests. Measures to deal with and contain the pandemic quickly do not have to be at the expense of economic development; on the contrary, they can serve to speed up recovery.
- 39) Crises are repeatedly referred to as the "hour of the executive". Apparently, in crisis situations, a strong executive is popular with large sections of the population. This also applies to the COVID-19 pandemic. However, strengthening the executive branch inevitably has a downside, as it means a weakening of parliaments if they are not consciously re-involved. If, moreover, the judicial control is reduced, the jurisprudence under pressure. Talk of the weakening of parliaments in the COVID-19 Pandemic, while having some justification, primarily relates to their functional processes. Despite these difficulties, the main decisions Containment of the pandemic in the parliaments, i.e. taken by the legislature. Case law has also monitored compliance with the legal requirements and framework conditions during the pandemic. However, the courts were only able to work to a limited extent during the peak phase of the pandemic due to infection control measures and, on the other hand, they were initially very cautious in their judgments about drastic infection control measures.
- 40) In the COVID-19 pandemic, German federalism has come under public criticism. Because health protection is essentially a matter for the countries, they were Infection protection measures in the federal states are not consistently uniform, but differ significantly from one another in some cases. The people and companies affected often found this confusing or difficult to understand, especially in the vicinity of national borders or in the case of international activities. However, the omission of central decisions with uniform Germany-wide regulations also has advantages. Federalism enables regional peculiarities to be taken into account and thus counteracts an undifferentiated and schematic central government approach. With a view to the pandemic protection measures, a balance has tended to be reached between decisions made centrally and at the federal level.
- 41) Another democratic challenge to pandemic policy is the risk of "technocratic governance" based on expert advice. German politicians took the advice of experts seriously and followed it

in many cases. In addition to the Robert Koch Institute and organizations such as the large research communities or the German Ethics Council, policy was also advised by individual scientists, especially from the fields of virology and epidemiology.

In part, the impression was given that it was direct and not subject to further justification. Derivation of political decisions from numbers such as the R value or the 7-day incidence.

The antithesis of this “evidence-based

Governing”, as it was called from a critical perspective, created a flood of false information about the virus and how to fight it, as well as the political motivations assumed to be behind it, which spread in particular via social media. Politicians had little to counter this so-called infodemic, which is primarily communicated via the press and public radio and television stations, which is why parts of the population who do not (or no longer) obtain information from these media were not reached.

- 42) People's trust in the German state as a democracy, constitutional state and federal state has suffered during the pandemic. Public approval of the Infection control measures such as the closure of daycare centers, schools and universities, border closures and the ban on major events were well over 80 percent at the beginning of the pandemic, but then dropped significantly as the pandemic progressed. This loss of trust is probably due, among other things, to the fact that the inadequate preparation for the pandemic in many areas of society, but above all the poor adaptability of the public infrastructure to the crisis, was becoming increasingly clear.

Fundamental lessons from the pandemic: (social) anthropological certainties

- 43) The pandemic has clearly demonstrated the vulnerability of humans as an inevitable part of the human condition. Vulnerability is a basic anthropological datum. She denies any form of exaggeration
First of all, interprets people as self-sufficient beings, which only through adverse circumstances in their
Self-sufficiency and strength is impaired and only then is it dependent on solidarity support. As a physical being, humans are physically vulnerable, particularly because of their bodily sensation of suffering and pain. People are socially and psychologically vulnerable in particular because they depend on reliable relationships and ties, on accommodating companionship and support and therefore on recognition and appreciation.
- 44) Vulnerability is not just a selective vulnerability or weak point in a successful lifestyle that should be avoided if possible. In this respect, it is misleading or at least misleading to speak generally of “vulnerable persons (groups)” who require special protection, for example in the COVID-19 pandemic. This sweeping generalization about vulnerability is associated with a considerable risk of stigmatization, especially in connection with protective measures - especially when a person who belongs to a particularly vulnerable group is held responsible for the protective measures because of this membership. In addition, the reduction to disease-related vulnerability can also be used to legitimize
(Self-)protective measures exist.
- 45) The anthropological basic data of vulnerability finds concrete biographical expression in situational and structural vulnerability: situational vulnerability occurs in social, political,

economic or also environmental constellations or interactions - in times of a pandemic, for example in

Exposure of physical and psychosocial integrity to a high risk of infection, possibly associated and increased by a significantly increased risk of serious, perhaps even fatal, illness. It also occurs when dealing with the (psycho)social, economic or even cultural consequences of those measures that are intended to prevent or at least contain the spread of the pathogen.

The importance of structural vulnerability is reflected in the pandemic in two ways:

First of all, affected people experience severe losses and restrictions in their way of life from the social institutions or organizations in which they live, through their regulations and specifications, to which they are more or less inevitably subject. Structural vulnerability is also reflected in the fact that institutions and organizations are also vulnerable themselves - namely when they can no longer maintain their usual functional processes to the required extent under the extraordinary conditions of a pandemic.

- 46) In recognizing human vulnerability in all its dimensions, one must not overlook the fact that being human also has the element of creative power, even resistance. In the scientific discussion, the term "resilience" has established itself for this. Of course, human resilience would be misunderstood if one simply wanted to understand it as the counterbalance to human vulnerability, which could compensate for it or even make it forget. Rather, resilience means the strength to deal with the resulting challenges in the midst of the situation of vulnerability and the concrete being injured in such a way that the possibility of a successful life remains open or can even be increased through increased sensitivity to the vulnerabilities and strengths of life.
- 47) The experience of recognition in interpersonal relationships and of belonging to communities is also one of the basic requirements of a successful Lifestyle - especially in extraordinary living conditions, such as those given during a pandemic. The experience of recognition relates to the situational vulnerability of the person or group of people concerned. The experience of belonging takes the form of concretely experienced solidarity. Recognition and belonging raise awareness of the respective situational and structural vulnerabilities and at the same time strengthen the resilience with which those affected learn to productively cope with these vulnerabilities through adaptation and transformative design.
- 48) The connection between vulnerability and resilience also has consequences for the relationship between justice and solidarity. One's own potential vulnerability also makes everyone equal in terms of the need for solidarity and the desire for fair participation. By recognizing and respecting vulnerability as an essential criterion of being human, solidarity is recognized in its equal originality with freedom and equality as an aspect of justice. For example, the insight into the inherent vulnerability of every human being influences the idea of solidarity, according to which healthy and capable groups should selflessly put their interests aside for so-called vulnerable groups. The changing attribution of vulnerability to different groups over the course of Pandemic has shown: not only elderly and disabled people, but also young people, families and children were vulnerable or vulnerable in different phases and in different forms.

- 49) In clinical psychological research, the term resilience refers to Differences in the impact and processing capacity of risks respectively vulnerability factors. He describes the successful confrontation with stress, whereby the successful confrontation is interpreted as the result of an interaction between the person on the one hand, the immediate social environment and the institutional environment on the other. In contrast, vulnerability means a lack of mental coping capacities and restrictive living conditions (low education, low financial resources, low integration and participation), which in turn can have a negative impact on the health of the individual, especially in individual and social crisis situations.
- 50) When we talk about the resilience of institutions, we mean that they have resources that enable them to behave adaptively and transformatively in relation to the needs and requirements of their users, even in times of social crisis. Mention should be made here of institutions from the various education and care segments that succeed, for example, in optimally matching the principles of health protection with those of the autonomy and social participation of their users.
- 51) For the dimension of the individual, studies show that an emotionally negative future perspective and a lower level of social support in the course of the crisis led to a decrease in the individual psychological resilience assessed by the person. A systemic perspective that considers the possible effects of risk and stabilization factors in the family or in family subsystems on mental health is particularly recommended for the analysis of resilience-vulnerability constellations in children and adolescents. The resilience of organizations is reflected in their adaptive capacity. In this context, situational resilience means dealing with unexpected events
Micro level (e.g. patient flows, supply bottlenecks), structural resilience
Optimization of resources and practices at the meso level (e.g. adjustments to work processes, personnel deployment, hygiene concepts or communication processes) and systemic resilience to longer-term changes in resources and practices at the macro level (e.g. through administrative or political decisions).
- 52) In the interest of promoting the resilience of institutions in the healthcare sector (not only) during the COVID-19 pandemic, it is necessary to strengthen the workforce in both quantitative and qualitative terms. Institutions that overlook or leave unanswered the physical and psychological stresses on their staff associated with the pandemic, or that interpret their avoidance or management as the sole regulatory task of the state, endanger not only the safety of the patients entrusted to them, but also the loyalty of their employees Employees during and after the pandemic - and ultimately their long-term development opportunities.
- 53) Both vulnerability and resilience have critical relevance for ethical decision-making conflicts. Efforts to operationalize both with specific and even quantitative indicators for weighing and weighting processes (“vulnerability indices”) underline this
Facts. Vulnerability refers to various types of impact, protection and support interests. It becomes more specific for groups and regions depending on social, health and care-related inequalities, which can and must be weighted in the course of an integrative analysis. The unequal treatment of people, groups and regions based on empirically verifiable

connections – correctly understood – does not represent any additional discrimination of those who are already disadvantaged. Because the weighting of specific aspects of vulnerability also opens up new insights into causal connections, which in turn increase (or reduce) existing social inequalities. , from which measures to reduce these inequalities (and possibly to promote resilience) can also be derived.

Weighing decisions and their normative-criteria bases

- 54) The pandemic continuously requires complex balancing decisions. Such weighing decisions are ultimately of a political nature. However, they are not necessarily based solely on well-founded factual insights provided by natural or social science expertise. Because they also affect morally and legally relevant goods and options to a considerable extent, these must Weighing decisions also fall back on legal or ethical criteria.
- 55) First and foremost is the criterion of human freedom. Like humans themselves, they are both vulnerable and resistant and – not least considering their own enabling conditions – always to be understood in their social references to other freedoms. In this respect, the blanket comparison of freedom on the one hand and health protection on the other does not go far enough. Aspects of restriction as well as enabling freedom must be balanced in a complex way in pandemic policy.
- 56) The preservation or restoration of the greatest possible freedom represents a fundamental objective from an ethical as well as (constitutional) legal point of view
The strategy of physical distance committed to protection against infection has led in all its gradations to sometimes significant and far-reaching restrictions on freedom rights. Its strongest manifestation, in the form of a comprehensive lockdown of private and public life, can only be justified if high mortality, long-term health impairments in significant parts of the population or the imminent collapse of the health system cannot be averted with less drastic measures. Once these goals are achieved, these restrictions on civil liberties must be withdrawn for both ethical and (constitutional) legal reasons.
- 57) The so-called negative freedom does not only take shape in the freedom from external ones Specifications, for example in the form of infection protection measures that restrict freedom massively.
Negative freedom also manifests itself in freedom from inner restrictions and Narrowing of personal life options, which result, for example, from the experience of (external) deprivation and hardship and can be reflected in paralysis and a lack of prospects. Positive freedom also initially has an inner side - namely in the linking of one's own way of life to orientations that the person concerned is convinced of the meaningfulness of and which they therefore adopt in the execution of their self-determined actions and their way of life. Its outer sides show up, for example, where public services are used or the most diverse forms of human communitization are entered into.
- 58) Against the background of this understanding of human freedom, the Significance of private, public and above all state institutions for the perception of freedom. Institutions have in particular the task of

Guaranteeing personal freedom – for both negative and positive freedom: Institutions should minimize restrictions on external freedom to the bare minimum and optimally enable internal freedom (e.g. in the sense of subjective security). They should at the same time provide the inner and outer binding and

Protect and promote forms of community – in the knowledge that all institutions can develop freedom-enabling and freedom-restricting effects at the same time.

- 59) During the pandemic, both negative and positive freedom were severely restricted in some cases to protect against infection. For the question of the intensity of the restriction of freedom and its medium and long-term consequences, its duration is of considerable importance. Last but not least, prolonged loss of freedom potentially leads to problematic habituation effects. This means that freedom must be at least partially re-learned and lived in the post-pandemic period. On the other hand, attention must be paid to the extent to which different freedom-impairing effects interact cumulatively and thus have adverse effects that go beyond mere addition. Conflicts between freedom interests are to be decided in a structured communicative process, ultimately in democratic cooperation.
- 60) For the question of an ethical criteriology in dealing with decision-making conflicts, this means that the regaining of freedom is not expressed in withdrawal
Constraints of negative freedom are exhausted, i.e. in the re-granting of movement or freedom to travel. It also includes the safeguarding and support of inner freedom through the Protection against health, social and, last but not least, economic hardship. To bond rich
In order to enable freedom (again) in the most diverse forms of human communitization, it is also necessary to secure and expand robust private and public institutions.
- 61) *democracy* and political participation are indispensable as safeguards and forms of expression of both vulnerable and resilient freedom. Especially under the conditions of a pandemic, the cooperation of state institutions based on the rule of law, the embedding of state decision-making procedures in the entirety of social opinion-forming and self-understanding processes, the opinion-forming function of media communication and, last but not least, the most far-reaching possible political participation of those affected in those decisions that they make in directly affect their way of life as highly significant.
- 62) Undoubtedly, an imminent “imminent danger” such as can arise during a pandemic requires government and public administration (public health and law enforcement, civil protection, etc.) to act both quickly and flexibly. The executive should be able to fall back on previously developed and tested emergency plans and implement them consistently if necessary. It must also respect the primacy of the legislature - especially when, in times of crisis, there are significant interventions in the rights and/or way of life of people over a longer period of time. Politics legitimized by parliament may make use of scientific expertise in order to arrive at appropriate decisions.
- 63) A democracy-stabilizing role comes into play especially in crises such as pandemics
Jurisdiction and here in particular the Federal Constitutional Court. The fact that the courts did not take on the role of a quasi-legislator in view of the considerable factual uncertainties and the great urgency of measures, but referred to the extensive discretion of the legislature, also

corresponds to the principle of democratic rule of law in material terms. Nevertheless, during the course of the COVID-19 pandemic, there were also obviously problematic ones Regulations – such as restrictions on contact in the open air with questionable benefits for protection against infection or isolation measures for the dying – which the courts have not counteracted, or at least not early enough and decisively enough.

- 64) Especially in the case of drastic measures in times of pandemics, a high degree of unambiguousness, clarity and traceability is essential. If there are repeated incomplete, unclear or simply incomprehensible regulations, trust in the rationality of infection protection measures or the Pandemic containment will be shaken. This not only jeopardizes the necessary acceptance of the norm, but also the indispensable participation of the general public in combating the pandemic. This always depends on a society-wide effort, which, however, cannot be forced to the required extent. The necessary voluntary Participation of the population requires their insight into the meaningfulness of the decreed Measures.
- 65) Especially in times of crisis, mass media and in particular the public radio and television stations have the indispensable task for a republican democracy of making the controversial pros and cons of measures audible and visible to a reasoning public. The critical part of this task was not always fulfilled to the desired extent at the beginning of the Corona crisis. The reluctance to focus sharp criticism on every detail in view of the size, the novelty and the "suddenness" of the pandemic problem may well have been understandable and justified. As the pandemic progressed, however, even obvious undesirable developments were hardly addressed with the necessary clarity by a journalism that saw itself as "constructive" or "sensitive to the common good".
- 66) The normative target option of political participation is closely linked to the idea of a liberal and republican democracy as a form of government. Affected people should participate in decisions about the design of their immediate surrounding space and the Places of their concrete coexistence on the basis of equality and share responsibility. It is a requirement of political justice, effective To enable participation in the design of the shared public space. During the pandemic, legal requirements, for example on hygiene concepts, were often implemented at short notice and without the involvement of those affected by the management, for example in long-term care facilities or integration assistance. There would certainly have been leeway, the creative use of which would have been in the interests of the people concerned. In view of the considerable cuts in the immediate way of life for most social and facility-related areas of life, the following should apply: Pandemics are the hour of effective political participation.
- 67) *human rights discourses*, which make the ethical content of human rights visible, help to ensure that the democratic design or limitation of fundamental rights, which are human rights set out in legal norms ("positive"), does not come at the expense of their inherent critical potential. Despite all legal discourses on fundamental rights, the regulation of pandemics often lacked a sufficiently developed sense of how problematic numerous measures from human rights view were. These discourses have just as little as the ubiquitous talk about

Vulnerability prevents the fundamental and human rights of children, the elderly or Those in need of care and disadvantaged and marginalized groups such as the homeless, refugees or migrant workers were given insufficient attention or even injured.

- 68) In accordance with the principles of the inclusiveness of the scope of protection of human rights and the universality of human rights, the general vulnerabilities of certain groups resulting from their peculiarities and special needs and living conditions must be taken into account, as well as the situational vulnerabilities of individual people. The fact that the right of all people to equal respect for their rights also includes those who are affected or threatened by exclusion is reflected in the human rights emphasis on the right to free and equal participation in society.
- 69) Measures taken to counter pandemic events not only need to be effective and proportionate, they should also be assessed individually and collectively to determine whether they are fair. In addition to the requirement that the decisions to be made be appropriate, the social, intergenerational and international implications of distributive justice and secondly the concept of empowerment are particularly important in the context of pandemic management.
- 70) To ensure the appropriateness or appropriateness of measures taken by
To increase the fight against pandemics, the scientific basis and thus the epistemic conditions for decision-making must be successively improved. This applies to research into the respective pathogen, the disease and the course of a pandemic, as well as the development of suitable vaccines and drugs, as well as the comprehensive analysis of the consequences of various political measures.
- 71) In the context of combating a pandemic, numerous questions arise about the fair distribution of damage, risk and benefit, which, with the health, social, economic and cultural consequences of the measures taken, not only affect very different goods and areas of life, but also – regardless of the diverse networks – represent very differently at the national, European and global levels. Irrespective of the self-responsibility of each individual, which is also ethically required in times of a pandemic, the postulate of priority concern for the groups of people who are most at risk and therefore particularly dependent on help and support - such as people with chronic illnesses and disabilities, people in precarious employment, The self-employed with insufficient social security, refugees and homeless people etc. - an integral part/orientation point of distributive justice. Since pandemic crises can dramatically exacerbate precarious living conditions and vulnerabilities and sometimes make them visible to third parties for the first time, the basic needs of those affected must be given priority in political decisions.
- 72) In the family area, too, completely new everyday routines had to be practiced due to home office, home work and home schooling, which emphatically raised the question of a gender-equal distribution of care work and social inequality had a particular impact. Even if the burdens that arose were not primarily of a financial nature or did not lead to acute economic existential difficulties for those affected, they illustrate the variety of social challenges that result from measures to combat the pandemic and that hit some population groups much harder than others.
- 73) Another area of particular importance in the context of the pandemic

Distributive justice is the so-called intergenerational justice. In general, the reference to generations when fighting a pandemic is important in terms of ethics of justice in at least two ways: on the one hand, it is related to the present (synchronous), ie with a view to current age-group-specific unequal distributions of stress caused by the pandemic and the measures taken to contain it; on the other hand, however, also related to the future (diachronic) with regard to a fair distribution of burdens between present and future generations.

- 74) The first aspect is particularly relevant because children, young people, trainees and students had to endure considerable restrictions in their lifestyle in the name of infection control, out of consideration for the high risk of severe COVID-19 disease progression in the older generation. It is an imperative of justice, in a fair way
Overall view not only the special need for protection, for example, of the very old
Persons to charge, but also those with the protective measures taken
The sacrifices and burdens that go with the measures, which the younger generation and their support systems in particular have suffered.
- 75) The second aspect of intergenerational justice concerns the long-term consequences of the measures taken now for future generations. In this context, it is particularly relevant that public budgets are largely financing the follow-up costs of the pandemic through new debt. In view of the rapidly growing
government debt, future generations will have to bear the main burden of financing the costs of the pandemic.
- 76) Various questions of distributive justice in the health care system have been particularly explosive in the course of the COVID-19 pandemic so far. For example, in the interest of justice, precautions should be taken so that in the future, even in exceptionally stressful situations, all patients who urgently need clinical treatment have equal access to it without being discriminated against because of the nature of their illness.
- 77) In phases of exponentially increasing numbers of infections, the prioritization of scarce intensive care resources under pandemic conditions and, in particular, the criteriological basis of triage decisions were also discussed in Germany. The focus was primarily on two possible competitive situations, the first of which can occur on admission to the intensive care unit if, for example, the number of unoccupied ventilation places is smaller than the number of patients who urgently need them (so-called ex-ante triage).). The second relates to the possibility of ending life-sustaining intensive care treatment that has already started in order to free up resources if a patient arrives with a more favorable prognosis (so-called ex-post triage).
- 78) Since it has not been generally recognized either at national or at international level
If there are rules for dealing with triage decisions, it would be desirable that in the future, for example under the direction of the World Medical Association or the WHO, internationally standardized recommendations for dealing with these extremely stressful decisions for all those affected (including relatives) would be drawn up.

- 79) Questions of distributive justice also arise when it comes to the detailed design of an appropriate vaccination strategy. Already in the context of national vaccination strategies, given the at least initial shortage of vaccines, questions of Justice, as there is not only well-founded criteria for establishing the Vaccination sequence required, but also a decision must be made as to whether and in which Extensive restrictions on vaccinated people are to be lifted. The vaccination issue in particular shows that questions of distributive justice cannot only be answered from a national perspective, but also have a European and global dimension and require corresponding efforts. There is no moral justification for leaving particularly vulnerable groups without medical care simply because they live in countries of the Global South and thus distant from us, while at the same time giving scarce vaccines to those who are at a significantly lower relative risk of disease or death . From an ethical point of view, supporting poorer countries in overcoming the pandemic and its consequences is therefore an imperative of international solidarity.
- 80) The issue of justice must not simply be reduced to the distribution of certain goods. Since people make different use of goods as a result of a variety of different factors (from health conditions to social life situations to geographical and climatic conditions), it is crucial to promote and develop the individual abilities of individuals as optimally as possible in order to to achieve (equal) opportunities in this respect. Especially in the light of the considerations made here on vulnerability and resilience, an orientation towards certain basic abilities - above all the basic The ability of people, institutions and systems to act - also prove helpful for a retrospective assessment of the various measures to contain the pandemic.
- 81) The COVID-19 pandemic has a surprisingly high spread across the population *solidarity* made manifest. The fact that certain groups have repeatedly protested against individual infection control measures, which they consider to be an unreasonably high burden, does not contradict this assessment overall. On the contrary, such protests rightly draw attention to the fact that solidarity cannot be demanded indefinitely. Solidarity consists in the willingness, at least temporarily, to set aside one's own claims, which a person or a group of people is entitled to from the point of view of justice, in favor of others.
- 82) Solidarity can be seen, for example, in the context of vaccination prioritization, when less threatened population groups (have to) take a back seat in order to give priority to more threatened population groups to benefit from vaccination protection. Such a Unequal treatment is not only compatible with the principles of justice, but may even be necessary: an unequal risk situation fundamentally justifies unequal care. With regard to the ethical weighing of goods that is necessary in times of a pandemic, a distinction must be made between solidarity that people exercise voluntarily of their own accord, so that they themselves determine the extent and possible time limit, and that solidarity to which people or whole Populations are bound by state decisions.
- 83) In a pandemic, solidarity in the form of state-imposed solidarity obligations plays an essential role. This means that those who are subject to these obligations can expect that their willingness to show solidarity will not be unduly strained. The burdens that are imposed on

certain persons (groups) in favor of others must be reasonably and, as far as possible, justly and fairly distributed on the “shoulders” of the persons (groups) in question. This also distinguishes compulsory solidarity from a voluntary practice of solidarity. Altruistically motivated people may hardly or not at all make their willingness to show solidarity voluntarily dependent on whether others could also help – they orientate themselves towards their acute need for support

opposite. On the other hand, the acceptance of compulsory solidarity dwindles to the extent that

Loads are distributed unilaterally, especially if this is not at least partially compensated for by appropriate measures.

- 84) Whether the people (groups) who are obliged to show solidarity as a result of the various pandemic protection measures see their burdens as plausible and justified also depends to a large extent on whether they give the institutions that decide on such obligations (parliament, administrations) or on whose knowledge basis such decisions are made (science), trust. Because it is almost impossible for them to assess the complicated facts to which infection protection measures relate, as well as their consequences and side effects, which are difficult to calculate in terms of reason and extent.
- 85) *trust* allows, in situations of uncertainty, to rely on the estimates
Leaving the decisions and actions of others without doing so at the expense of one's own sense of security. Trust strengthens the productive handling of ambivalences and crises. If there is a lack of trust in the people who make decisions and are responsible for them, or if there is a lack of trust in the institutions that people depend on during the pandemic, or if the trust placed in them is disappointed and violated, the uncertainties multiply. Disappointed trust can be just as bad as one that is perceived as unfair
Sharing the burden of fighting a pandemic means that the acceptance of infection control measures is dwindling.
- 86) Trust is irreplaceable for a successful life. However, the trust placed in us can be disappointed, abused and violated. This is an aspect of everyone's vulnerability. Once trust has been shaken or violated, it is difficult to rebuild, win back or re-stabilize. This applies to trust in people as well as in systems, institutions or organizations. who
If you want to gain trust or not lose it, you have to create a basis of trust through comprehensive and reliable information on critical decisions.
- 87) In a pandemic, for example, the recognition of a person of trust can erode if the affected (groups) are not involved in decisions about protective measures. However, relationships of trust can also be jeopardized by the fact that, for example, contact restrictions prevent social work professionals and the children and young people they support from meeting for a long time. Self-confidence forms a separate category of personal trust. During the Corona crisis, for example, many employees in long-term care lost their confidence in their own professional expertise due to the numerous restrictions and legal frameworks in the context of hygiene management and the
everyday management shaken. It is extremely important that those affected follow the
Pandemic regain confidence in your own ability to make professional decisions.

- 88) Trust in institutions is based on people confronted with them having the impression that they can rely on the skills and goodwill of those working in the institutions. In order to (re)gain trust in an institution, it requires people working in it who convey (new) trust in the institution. Institutional issues are often based on personal trust. Despite its eminent importance for institutional trust, however, relying solely on personal trust does not go far enough. Rather, politicians and cost bearers are called upon to strengthen the crisis security of institutions and thus to ensure the corresponding confidence-building and securing framework conditions.
- 89) In the course of the pandemic, scientists - especially virologists - attracted particular attention from politicians and the public with their technical expertise. In a way that was unusual up to then, many people active in politics referred to scientific findings and occasionally presented political decisions as a mere translation of scientifically proven facts
Measures or regulations. On the other hand, it should be noted that the
The scientific community is unable to generate any ultimately binding and irrefutable truths about the various aspects of the pandemic and to make them available to politicians and the public, because empirical knowledge is fundamentally provisional and fallible.
- 90) It is part of the credibility and trustworthiness of scientific experts that on the one hand they reflect the current state of research, but on the other hand always its provisional nature and its political and administrative limits
make it unmistakably explicit to those responsible and to the public. This is an important part of scientific honesty or honesty. Science must be free and independent. Any (party) political appropriation or influence is to be rejected. The occasionally observable public pressure on scientific advisory bodies damages trust in science's efforts to achieve factual objectivity. Conversely, academics must respect the logic and personal responsibility of decision-makers in the political sphere. In a democratic society governed by the rule of law, ultimate responsibility for political decisions rests with the democratically elected sovereign: the parliaments.
- 91) In the context of pandemics, the attribution, acceptance, and perception of responsibility are diverse and complex. Responsibilities arise at different levels and are attributed to differently structured actors with specific roles: at the micro level, for example, in the direct interaction between individuals within a facility; at the meso level, for example, in the actions of facility management, which form the framework for assuming responsibility at the micro level and pre-structure it; as well as on the
Macro level, for example, through actors in the political sphere who exert significant influence on actors at the micro and meso level through legal provisions. This hierarchy has a particular effect on the ability to actually meet one's own responsibilities at a lower level. This intertwining of different
levels and role-specific responsibilities takes up the concept of "multi-actor responsibility".
- 92) Every member of a society has personal responsibility
Compliance with government regulations or those voluntarily adopted
Contribute to protective measures to avert immediate health risks for themselves and, above all, for others. Individuals may have to answer to state bodies for non-compliance with mandatory requirements. However, in the face of deliberate or unavoidable control deficits, it

is not sufficient for infection control purposes if standards are followed only out of fear of sanctions. Rather, as many people as possible should have insight into the necessities that follow from the responsibility for the well-being and woe of one's own life and that of others.

- 93) In addition to the level of personal responsibility, the level of state or corporate responsibility is particularly important in the context of a pandemic. Only an understanding of the various relevant levels of responsibility and their mutual interlocking enables a basic problem of attribution of responsibility, which is aggravated during a pandemic, to be dealt with appropriately: the diffusion of responsibility. Using the concept of Multi-actor responsibility can be determined in a differentiated manner as to who is responsible for what at which level. When analyzing such attributions of responsibility, the principle of subsidiarity is of considerable ethical relevance. It stipulates that only that which cannot be satisfactorily regulated at lower levels should be regulated at higher decision-making levels.

Weighing goods in a pandemic

- 94) Overall, government practice in dealing with a pandemic must be as coherent as possible. Even if the conditions for fighting a pandemic are constantly changing, new virus variants with modified properties appear, vaccines and drugs are being developed and measures have a different effect than expected, care must be taken to ensure that the normative criteria that guide the state's evaluation of interests remain diachronic and synchronously coherent .
- 95) The principle of proportionality applies to pandemic regulation measures in the same way as to all other government measures. Accordingly, they must pursue a constitutionally legitimate goal and be suitable, necessary and reasonable (reasonable) to achieve this goal. "Suitable" means the chosen one
The regulatory instrument must be able to promote the achievement of the regulatory objective. The word 'may' is important because it gives the state some leeway in determining how a regulatory objective it is pursuing can be achieved. "Necessary" means that there is no equally effective but milder means by which the regulatory objective could be achieved. Finally, the criterion of "reasonableness" is intended to prevent the state measure in question from excessively restricting fundamental rights.
- 96) In the legal sense, fundamental rights are – with the important exception of Human dignity (Article 1 Paragraph 1 of the Basic Law) – no absolute values. Your The intensity of protection can therefore very well be restricted, which of course has to be justified, above all by considerations of proportionality. Understood in this way, fundamental rights are scalable, deontologically weak regulations that grant more or less protection. The concrete balancing of conflicting interests, the selection of certain steering instruments is not a mathematically precise task, but requires political leeway. From a constitutional point of view, there can be several equally “right” solutions, which may appear to have different political sensibilities, but are in any case equally constitutionally justifiable.
- 97) Moral decision conflicts usually arise in situations in which different moral goods cannot be protected or realized at the same time or to the same extent. In view of the large number and

heterogeneity of the relevant goods, the weighing of goods required in such conflict situations requires not only clear criteria and rules, but also effective protection of that deontological core area of morality that eludes weighing. Such decision conflicts are resolved in an ethically justifiable manner when a reasonably justified preferred choice is made within the framework of moral considerations.

- 98) The present statement deals primarily with the macro level of state and society, at which weighing up of interests is carried out by political institutions that are responsible for this under the constitution or by law. During a pandemic crisis, the basic problem arises that, at least at the beginning, weighing up goods is carried out under the condition of great uncertainty about the consequences and side effects of measures, which not only unintentionally affect other goods, but can even damage the goods on whose protection the relevant measures were aligned. The ethical criterion among health policy aspects is therefore not how effective a measure is by a specific one counteracts the burden caused by an infectious disease, but what the overall health effects are.
- 99) In decisions under uncertainty, the maximin criterion is usually applied, which aims to minimize the worst-case damage. As obvious as damage minimization is as a criterion for state decisions in pandemic emergencies, it must not be overlooked that focusing solely on damage without considering possible positive consequences, i.e. benefits, can lead to wrong decisions. In order to make well-founded ethical decisions, it is necessary to weigh the opportunities and risks against each other as a whole.
- 100) Decisions about risks, which are either to be reduced by the state in any case, or which may have to be accepted personally and socially, or which can be countered by individual risk prevention, always depend on subjective and intersubjective risk perceptions shared with others, as well as on the respective socially discursively negotiated and agreed risk acceptance . A distinction must be made between the individual and the state decision-making level. While individuals may also follow risk-taking decision-making rules and offset risks and opportunities for themselves over time, this does not apply to the state level insofar as the state must bring about a fair balance between the burdens on numerous people. A state, Maximizing the life expectancy of the population would endanger the free order of democracy.
- 101) The substantive objective of anti-pandemic measures arises from the fundamental duty of the state to protect the life and limb of its citizens. However, the state's duty to protect has limits. From an ethical and legal perspective, state intervention in self-imposed risks should be kept to a minimum. Although our legal system tolerates various forms of self-harming behavior for the sake of human freedom, no one has the right to expose other people to unreasonable risks against their will. In addition to the hardly measurable consequential costs for society as a whole, it is above all the other people who are imposed Risks that are ethically and legally unacceptable once they exceed a certain level of acceptability.
- 102) If the health risks emanating from a pandemic infectious disease due to vaccinations, medication, immunization through previous infections or also as a result of the spread of new virus variants with higher infectiousness but lower pathogenicity are below what society would

expect with regard to other viral diseases (e.g. the previous four coronavirus diseases, influenza) - so far and in the future - is willing to accept, serious infringements of freedom can no longer be justified.

- 103) Goods considerations are not limited to the consideration of opportunities and risks or of possible damage and possible advantages. The understanding of "goods" is to be broadly defined: In addition to basic goods such as life, experience of self-efficacy, freedom, physical and psychological integrity and necessities such as food, clothing, Last but not least, housing and minimum material equipment also include (fundamental) rights, competences, social relationships and participation rights as goods with significant moral relevance. In the ethical debate, different preferential rules are proposed for weighing up this variety of goods. In addition to so-called rules of thumb such as "reversible before irreversible evil", "short-term before long-term evil" or "common good before particular interests", the preferential rule of (good) fundamentality ("The more fundamental or higher-ranking good is to be preferred") and the preferential rule of (goods) dignity ("The more important good is to be preferred").
- 104) It is often difficult to weigh goods in such decision-making conflicts
Consequences and secondary consequences only affect the weighing and deciding person himself.
Considerably more complex and normatively more demanding are the weighing of goods, the consequences and side effects of which affect large groups or entire societies. But that is regularly the case in pandemic crises. Since ideas about what goods are to be regarded as more fundamental or significant vary considerably, it is crucial, especially in political decision-making processes, to use the public space
Not to narrow deliberation through unrealistic demands for consensus or impermissible preconditions (material or epistemic).
- 105) The public discourse in a democratic community should be oriented towards a broad, inclusive conception of the public use of reason in order to pull the ground out of ideologically motivated bans on thinking and the exclusion of uncomfortable positions. What matters here is the ability to endure views that differ from one's own and to jointly explore the corridor of rational considerations in factual communication supported by respect and mutual recognition. The respectful and inclusive public discourse is free of hate messages and calls for violence with the sweeping questioning of the foundations of democratic compatible with the constitution. In particular, the intentional dissemination of obvious Untruths and conspiracy stories damage democratic opinion-forming.
- 106) A comprehensive analysis of pandemic policy has only just begun, but if it is to be fruitful, it must already take future scenarios into account. The crisis has changed this society. The post-pandemic situation will therefore not be a mere return to the pre-pandemic period. Instead, it should be shown under which conditions the permanent crisis mode can be exited by structuring persistently present risks in such a way that social consequential damage is minimized. The idea that the crisis is only over when the danger or security situation of the pre-COVID situation has been restored must be countered with a risk-adapted and risk-aware approach to a reality in which the virus has not disappeared, life but no longer dominant.

- 107) However, the Corona crisis has shown in an extremely aggravated form how little we were - and are - prepared for a situation of uncertainty that is not only specific to a specific area, but relevant to society as a whole, despite all preliminary considerations. Dealing with such epistemic vulnerability involves recognizing that fixede "Master plans" are unrealistic, but it still falls short to "drive on sight" without a clear basic strategic orientation and only react to acute dangers. Implementing this is an enormous communicative task.
- 108) In phases of great uncertainty, public discourse must be conducted with particular sensitivity to the possible consequences of measures. In public communication, any form of panic-mongering motivated by the economy of attention should be avoided, as should trivializing and the all-clear without a valid reason. How we deal with risks directly affects the design of the tense relationship between freedom and security in our community. This side of core areas of freedom that cannot be weighed up requires a continuous process of reflection and deliberation, which also takes into account what is or was usually accepted by society in a comparable context.
- 109) As the COVID-19 pandemic impressively illustrates, increased Security efforts massively impair both individual and group-related freedoms. Especially drastic and long-lasting measures must be subjected to strict justification requirements. Freedom is not a privilege granted by the state, but in principle a non-negotiable basis of the democratic constitutional state.
- 110) The historical reconstruction of the course of the pandemic must not be followed by an unhistorical assessment. One is always wiser afterwards, and in a crisis of world-historic proportions, mistakes and wrong decisions are inevitable. This applies to individual decisions at all levels of responsibility as well as to institutional processes. But this does not mean a license. Rather, it requires a critical review of crisis management in order to reveal personal misconduct, systemic flaws, dysfunctional forms of organization and/or unsuitable procedures and to enable corrections. A highly developed error culture is also an expression of resilience. In doing so, it is important to understand democratic pluralism of values and enduring difference not as a flaw, but as a virtue,
- 111) In the course of the last two years, it has become apparent that different, sometimes conflicting risk assessments have been made in the population, sometimes due to the degree of concern, sometimes as a result of a divergent weighing of interests. The central responsibility for keeping the population in a coexistence in times of crisis lies with the state actors. Their task is to have an informative and balancing effect, to keep the elementary civil society spaces of democratic dispute as open as possible and to counter scapegoat narratives. Also and precisely because there will be a time after the pandemic in which we will be necessary in order to process the damage that has occurred, as far as this is possible, and to repair it if necessary,

recommendations

1. Democratic legitimacy of protective measures

In a pandemic, a political decision must be made as to whether the protection options at the individual and (civil) societal level are sufficient and effective and which government measures should or even have to be taken. These political decisions must be made as farsightedly as possible, quickly and consistently if the situation escalates, scientifically informed, ethically reflected and democratically - in the case of essential questions by the federal and state parliaments - and taking into account the views of the people affected. In particular, social groups that are particularly affected by the pandemic or the measures taken to contain it and are underrepresented in public discussions should be actively involved. This is for all democratic challenges,

2. Obligation to generate knowledge

The weighing of interests necessary to justify protective measures requires extensive qualitative and quantitative empirical data from various scientific disciplines, which must be collected and interpreted. The scientific knowledge gained should increasingly provide information about the routes of infection and about which areas of society and under what conditions there are which risks of infection or disease and which measures can best be used to contain them. In addition, scientific knowledge is to be gained as to the consequences of protective measures for different population groups. Because these scientific findings are the prerequisite for a proportionate restriction of fundamental rights and the resolution or alleviation of dilemmas, there is a state obligation to ensure the accessibility, collection, consolidation and evaluation of the necessary knowledge and data base and to promote corresponding research projects. At the same time, data on the secondary health consequences (e.g. increased mortality from untreated or late treated cardiovascular diseases or oncological diseases, higher numbers of mental illnesses through to an increase in admissions under the Mental Illness Act) must be collected to get into the weighing of To ensure the merging and evaluation of the necessary knowledge and data basis and to promote corresponding research projects. At the same time, data on the secondary health consequences (e.g. increased mortality from untreated or late treated cardiovascular diseases or oncological diseases, higher numbers of mental illnesses through to an increase in admissions under the Mental Illness Act) must be collected to get into the weighing of to be able to incorporate benefit and harm. Research and data collection on the consequences of Pandemic and the measures to contain it for groups that are disproportionately affected by social inequality, precarious living conditions or discrimination must be carried out systematically in order to better protect (inherently and situationally) particularly vulnerable groups from health risks in the future and protect them from the damaging consequences of protective measures as well as to strengthen their resistance (resilience) in a targeted manner.

3. Embedding of protective measures in a time-spanning overall strategy

The restrictions on rights and freedoms should be as minimal as possible at all times. A start should therefore be made as early as possible on developing an overall strategy for controlling the pandemic over its entire duration in a manner appropriate to the point in time, while taking into account its long-term consequences and those of the protective measures. As soon as signs of an escalation of the pandemic situation or harmful consequences of protective measures become visible or scientific

findings are available that require a change or adjustment, the overall strategy should be adjusted. Undifferentiated restrictions on freedom (especially in the form of a lockdown) should in any case be as short as possible and as consistent as necessary. For this reason, undifferentiated and generalized measures must be replaced by differentiated protective measures or eliminated entirely as soon as the incidence of infection, disease or hospitalization has reached a sufficiently low level or the possibility of effective and reasonable self-protection options has been ensured. The people in this country can expect that the prerequisites for more effective and differentiated protective measures or for the end of restrictions on freedom will be actively created. hospitalization incidence has been reached or the possibility of effective and reasonable self-protection options has been ensured, are replaced by differentiated protective measures or are omitted entirely. The people in this country can expect that the prerequisites for more effective and differentiated protective measures or for the end of restrictions on freedom will be actively created. hospitalization incidence has been reached or the possibility of effective and reasonable self-protection options has been ensured, are replaced by differentiated protective measures or are omitted entirely. The people in this country can expect that the prerequisites for more effective and differentiated protective measures or for the end of restrictions on freedom will be actively created.

4. Respect for human dignity and protection of core human rights

In all measures to contain the pandemic, human dignity must be respected and the core of fundamental and human rights must be protected. First of all need timely effective measures are taken to prevent the spread of infection from spiraling out of control while disregarding human dignity. That's about the case when People are forced to walk alone, unaccompanied by loved ones or spiritual ones assistance to die. Respect for human dignity also requires, with the help of Protective measures Prevent situations in which triage decisions in the medical supply become necessary. If such tragic decision-making situations occur, people with disabilities are at risk of being disadvantaged, which the legislature must prevent through appropriate regulations. Pandemic protection measures also affect the core of fundamental and human rights, for example when a minimum of social contacts in care and other community facilities is denied or when people without being able to help themselves get into existential difficulties and are denied possible help. For all measures to combat the pandemic, social services, contact points and Shelters for people in emergency situations (e.g. for women and children affected by domestic violence, people in acute mental crises or homeless people) remain functional to the extent that they can receive help. A violation of fundamental and human rights can also exist if, in the case of outbreaks of infection in community facilities, group or Collective quarantines are ordered and carried out, so that healthy people are exposed to high risks of infection in the interest of fighting the pandemic. In the event of an outbreak of infection in community facilities, preparations should therefore be made to enable individual or small group accommodation. The core of economic, social and cultural human rights is threatened if possible and effective support and compensation measures are not taken. This is the case, for example, if support is not provided to secure a livelihood in the event of a de facto occupational ban, or if children and young people are completely excluded from education (e.g.

5. Protection of particularly vulnerable people

Persons with a high risk of infection and/or a severe course of the disease must be given special protection. This is necessary both in terms of protecting their own health and in terms of the common good. Decisions about protective measures must weigh direct pandemic-related health risks against potential harm from protective measures taken, taking into account social and psychological burdens. They must be accompanied by the least possible restrictions on the rights of the data subjects and they must be included in the decision-making processes. The decision on protective measures must be based on the systematic consideration of their consequences and side effects for groups that are disproportionately vulnerable to social inequality life situations or discrimination are affected.

6. Promotion of crisis resilience of institutions

The lessons learned from the lack of resilience of institutions in the current crisis are that short-term and medium- and long-term protective measures must be flanked in order to minimize damage to goods protected by fundamental rights and to promote the individual resilience of particularly vulnerable people. Effective health protection can only be reconciled with obligations to comprehensive basic and human rights protection if essential social institutions are designed to be crisis-resistant. Where this is currently not the case, intersectoral cooperation at all levels of responsibility must be used to make adjustments. The demand to develop previously vulnerable institutions into resilient ones applies in particular to the areas of health, Education and social affairs with their essential services and essential relationships. This includes an infrastructure and, in particular, organizational and human resources that allow free resources or resources to be generated at short notice in a crisis. This is the only way to fulfill the assigned tasks and to react quickly and appropriately to the challenges caused by the crisis.

7. Promotion of personal responsibility and solidarity and preservation of social cohesion

In the event of a pandemic, a liberal and democratic state is dependent on the people living in it voluntarily helping to cope with it, showing solidarity and taking on responsibility independently. Personal responsibility and solidarity must be supported and promoted; where there is no scope for this, it must be created. The often creative and imaginative civil society contributions to overcoming the crisis should be supported and not hindered.

Where tasks of general interest are delegated to non-statutory welfare organizations, for example, these support systems should be supported by the state so that they can fulfill their tasks despite the special challenges of infection control (e.g. in long-term care or help for the homeless). Pressure and coercion on people can only be justified if voluntariness does not deliver the required results or if the ban on the assumption of competence as part of subsidiarity can no longer be followed because the political and social system threatens to become dysfunctional as a result of the pandemic. Intrusions into privacy should be avoided as far as possible. Where they are deemed necessary, they are subject to a special empirical and normative justification obligation. The protection of privacy and family of people in precarious

Life situations (particularly in community facilities) are to be taken into account equally. The potential of infection control measures to promote social divisions should be decisions are systematically taken into account.

8. Decentralized protection concepts adapted to area-specific and local conditions

Decentralized protection concepts adapted to area-specific and local conditions are more effective than undifferentiated blanket measures and usually interfere less with people's fundamental rights and freedoms. The lack of clarity and uncertainty caused by many regionally different measures must be countered by means of transparent communication. The most promising infection protection strategies include uniform and generally binding framework conditions that the state makes plausible, justifies and sanctions to the persons concerned. Within such framework conditions, concrete protection concepts should be implemented area-specifically, decentrally and independently by the persons authorized to make decisions. It is crucial To strengthen personal responsibility in all areas of society and at all hierarchical levels and to use specific knowledge of local conditions. In this way you can also Willingness to show solidarity and people's creative potential are made fruitful.

9. Fair distribution, minimization and compensation of burdens

The protection strategy should counteract discrimination, distribute burdens as fairly as possible and compensate for unavoidable unequal burdens. For those required for this Both the direct and indirect consequences of the Protection strategy for all affected social groups must be taken into account. In this In particular, it is also important to ensure that the inherent and the situational The vulnerability of people and the systemic vulnerability of institutions are given sufficient attention and all factors of resilience are strengthened at the different personal and institutional levels. Likewise, the rights of people in precarious living conditions must be protected and the increase in social inequality must be counteracted. Aspects of social and intergenerational justice must be taken into account appropriately. For example, for children, adolescents and young adults in educational contexts, the focus should not be on catching up on the missed content in the shortest possible time. Rather, the main challenge is to prevent some pupils and students from being permanently inhibited in their cognitive and social development as a result of the Corona crisis.

10. Enabling and strengthening participation

The general claims to self-determination based on political justice and Participation applies during a pandemic as well as at any other time. Also helps Participation in the appropriate design of protective measures and promotes their Acceptance. For the prospective and retrospective assessment of the consequences of Infection protection measures are therefore the representatives of the interests of those affected Involving groups of people as "experts in their own affairs". This applies to everyone Decision-making levels from the parliaments to the municipalities to individual educational and Social institutions (e.g. student, parent and student representatives in the education sector, workshop and home advisory councils for integration assistance, refugee councils, self-representatives for homeless people). However, despite all efforts towards participation and its appreciation, the need for a coordinated approach should not be neglected in view of the unpredictability of a pandemic.

11. communication and information

Acceptance and legitimacy of pandemic protection measures are closely related. Their acceptance and the population's willingness to participate are decisively promoted by good crisis communication and appropriate, appealing and understandable information. This includes seeking dialogue with everyone and taking their concerns and positions seriously. The federal and state governments should provide systematic, continuous, multilingual and culturally sensitive information about the pandemic, pandemic policy and the individual protective measures - in particular the vaccination strategy. However, clarification and information must not be provided in a patronizing manner, as it were "from above", but there must also be room for discussion on an equal footing. It should also be taken into account that many no longer obtain information from the traditional media such as press, radio and television, but from social media, in which on the one hand there is a lot of misinformation circulating, but on the other hand they also offer opportunities for dialogue and exchange. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required.

12. International Justice

The fight against the pandemic can only be successful through a coordinated, international procedure succeed. It is therefore necessary to strengthen the United Nations and the World Health Organization with the aim of supporting the health systems of poorer countries and ensuring health care under pandemic conditions. This concerns the availability of protective measures, but also access to vaccines,

Treatment options and test methods. In particular, it must be ensured that the population in poorer countries can also be vaccinated. All possibilities should be examined impartially. It is a question of international justice, but also in the well-understood self-interest of rich countries, less prosperous countries in particular

To support the Global South in dealing with the pandemic and its consequences.

1 Introduction: Structural conflicts and necessary trade-offs

The COVID-19 pandemic suddenly started unexpectedly. The first known COVID-19 patient was infected on November 17, 2019 in Wuhan, China; on December 31, the outbreak of a new lung disease with an as yet unknown cause in China was confirmed. The new coronavirus SARS-CoV-2 quickly spread worldwide. On March 11, 2020, the WHO officially declared a pandemic. Since its inception, it has forced societies around the world to make sometimes far-reaching considerations and prioritizations that not only have to be politically accounted for, but also ethically justified.

At the time of writing this Statement, the third year of the COVID-19 pandemic has begun and there is still no end in sight. Vaccination has been in effect since the end of 2020, which made a decisive

contribution to the fact that record incidences were recorded in the second winter of the pandemic, but the number of severe and fatal courses of the disease was significantly lower than would have been the case without vaccination. The first experts believe that there is a transition from a pandemic to an endemic situation that is to be aimed for and that can be controlled in terms of the threat situation, which is characterized by a recurring but spatially limited occurrence of the pathogen (“endemic situation” for short).¹, is beginning to appear on the horizon - although this forecast is still subject to great scientific uncertainty in view of the constant flow of new virus variants and vaccine breakthroughs. In any case, for parts of the world, the end of the pandemic is far from being within reach.

Each and every individual, every community, yes the whole world has been and is being put to the test in this crisis. The pandemic has shaken many notions of normality, removed some certainties and shaken confidence in the ability to plan life. She confronts us in a special way with the vulnerability and finiteness of our existence. The consequences - political, health-related, social, economic, cultural - extend to our relationship with ourselves and call into question the sustainability of our way of life. The pandemic teaches us that freedom was and is fragile and vulnerable. At the same time, however, the pandemic also conveyed the encouraging experience that the majority of the population not only endured the drastic restrictions patiently, but also, out of insight into their necessity, sometimes even voluntarily as an expression of a deeply felt feeling of community and solidarity. This shows that freedom was and is resilient.

People are mourned, some of whom had to die unaccompanied by their loved ones. Nurses and doctors are fighting for the lives of too many on the verge of exhaustion. Patients in the intensive care units. So much the consequences of the pandemic and theirs. Coping affects everyone, yet it does not affect everyone in the same way. Both a different level of physiological vulnerability (due to age or previous illness) and a different risk of exposure (particularly high, for example, among medical staff) result in the unequal distribution of infection rates, serious illnesses and death. The burden that people have to bear as a result of infection control measures also weighs differently depending on biographical characteristics, personal and professional situation, the degree of vulnerability and the resources of resilience.

The pandemic has not only revealed significantly increased vulnerabilities in precarious living, housing and working conditions, it has also exacerbated these vulnerabilities again. This not only affected population groups that were particularly disadvantaged even before the pandemic, such as less financially strong families and single parents. Rather, people with certain pre-existing conditions as well

Employees in areas that are particularly affected, such as gastronomy or the culture and event industry, are exposed to enormous ad hoc loads. There is no doubt that there have been numerous injustices in dealing with the multiple challenges of the pandemic. This statement aims to contribute to the processing of these experiences in order to be better prepared for future pandemic crises.

¹In the public debate, the transition to an endemic situation is usually understood to mean that infections with SARS-CoV-2, as in the case of cold viruses (which include a number of corona viruses), will only very rarely be difficult. Due to its still high infectiousness, regular contact with the virus would maintain immunity in the population and thus make the burden of the disease manageable. See, for example, <https://www.zdf.de/nachrichten/heute-journal/drosten-omikron-koennte-impfluecke-close-100.html>

Many are now tired of the pandemic. Wrong political decisions, which among other things resulted from insufficient preparation for such a pandemic, and indeed for a crisis of this magnitude in general, have contributed to this. In this country, education and health care were particularly affected. The measures to break the waves of the pandemic were sometimes not well communicated, but sometimes not well enough justified. A convincing, scientifically founded, ethically justified and legally viable long-term strategy that takes the empirical uncertainties seriously does not yet exist.

In March 2020, in its ad hoc recommendation “Solidarity and responsibility in the Corona crisis”. It has already described key ethical conflicts that can arise from the unequal distribution of these risks and burdens. The avoidance of triage situations was named as the primary goal. Even then, the Council recommended regularly evaluating the course of the pandemic and the measures taken against it in order to keep burdens and consequential damage as low as possible and to develop long-term solutions.²In the course of the first year of the pandemic, it became clear that people living in facilities for the elderly or disabled suffer particularly from COVID-19 and the contact restrictions caused by the pandemic. In addition to the numerous serious and fatal courses of disease in these groups of people, the pandemic protection measures led to their extensive social isolation. In its ad hoc recommendation “Minimum social contacts in long-term care during the Covid-19 Pandemic” the German Ethics Council therefore proposed measures in December 2020 to ensure a minimum of interpersonal contact for those affected despite the necessary protection against infection.³

In the summer of 2020, controversy arose over the introduction of state-controlled ones Immunity certificates were discussed with which those who had recovered could have been exempted from certain infection protection-based freedom restrictions in a specific area or even across the board. This prompted the then Federal Minister of Health Jens Spahn to ask the German Ethics Council to discuss the ethical requirements and implications of this regulatory instrument. In its opinion on “Certificates of immunity in the Covid-19 pandemic” published in September 2020, the Council came to the conclusion that, given the uncertainties at the time regarding the nature and timing of immunity and infectivity and the significance of Antibody tests for SARS-CoV-2 the use of immunity certificates cannot be recommended.⁴

After the start of the vaccination campaign, the Ethics Council addressed the question of possible exemptions from Pandemic protection regulations regarding vaccinated people again. In the ad hoc recommendation “Special Rules for vaccinated?” of February 2021, the council recommended the withdrawal of state To refrain from restrictions on freedom at least until everyone in Germany had the chance to be vaccinated.⁵Both documents pointed out the great uncertainties regarding a reliable assessment of the immune status in relation to a COVID-19 infection. As has since been shown, these reservations were very valid.

²See German Ethics Council 2020a.

³See German Ethics Council 2020b.

⁴See German Ethics Council 2020c.

⁵See German Ethics Council 2021a.

It is a truly remarkable scientific achievement, how quickly different COVID-19 vaccines could be developed. The first approval was in autumn 2020. Vaccines are already foreseeable, but it also became clear that it would take some time to build up sufficient production capacities and that vaccines would therefore initially only be available to a limited extent. Therefore, in November 2020, a working group made up of members of the Standing Vaccination Committee at the Robert Koch Institute (STIKO), the German Ethics Council and the National Academy of Sciences Leopoldina developed a joint position paper on the question of how access to COVID-19 vaccines is equally ethical and could be regulated in a legally acceptable and practically sensible manner. It recommends giving priority to people who have an increased risk of a severe course of the disease due to age and previous illnesses, on the one hand, and people who have a high risk of illness, on the other bear the risk of infection associated with certain living and working conditions. The paper also highlights the importance of trust for both the acceptance of vaccination prioritization and the vaccination campaign as a whole. Transparency and good communication are necessary to establish trust, whereby concerns and fears in the population must be taken seriously.⁶

A good year later, the vaccination rates in Germany are too low to curb the spread of virus variants such as Delta and Omikron, which requires significantly higher vaccination rates than originally assumed. This gives rise to fears that a controllable endemic situation will not be reached in a timely manner and that further pandemic waves could threaten health and social burdens, which may also result from those that may then become necessary again. Restrictions on freedom would result. Against the background of the vaccination gaps that still exist at the beginning of 2022, there is a controversial debate about mandatory vaccinations, which were largely ruled out at the beginning of the vaccination campaign - also in the publications of the German Ethics Council. The Ethics Council has recently made two ad hoc recommendations on compulsory vaccination. In November 2021, in "On the compulsory vaccination against Covid-19 for employees with special professional responsibility", the Council recommended the "serious and rapid examination" of a compulsory vaccination against COVID-19 in

Areas in which particularly vulnerable people are cared for. Such a mandatory vaccination should include all employees, the seriously or chronically ill and the very old. Providing people with professional care, such as medical and nursing staff, but also employees in social services, everyday support or housekeeping.⁷ In December 2021, in "Ethical orientation on the question of a general statutory obligation to vaccinate", the Ethics Council presented essential ethical and legal arguments for and against a general statutory obligation to vaccinate and, by the majority, recommended an extension of the facility-related ones that had already been adopted

⁶See Standing Vaccination Commission/German Ethics Council/National Academy of Sciences Leopoldina 2020.

⁷German Ethics Council 2021b.

Compulsory vaccination either for all adults or at least for people with a high risk of developing a severe course of the disease.⁸

In the extensive statement now available, the German Ethics Council does not want any further Present recommendations on individual problems, but rather provide ethical orientation for difficult deliberation processes that are unavoidable when decisions are made on measures to deal with this or future pandemic-related crises. Even in the event of a pandemic, complex decision constellations and conflicts must be the subject of multipolar considerations that are relevant to society as a whole. A long-term strategy is needed that is consistently geared towards overcoming the crisis, even if the focus is always on short-term goals. Different goals have to be hierarchized and the means to achieve them continuously adjusted. This also happens in a pandemic under the conflicting conditions of a pluralistic community.

At first glance, the considerations mainly revolve around two poles: the pole of freedom and that of health protection, understood as multifaceted codes for interacting individual and supra-individual interests. Without wanting to provide comprehensive definitions of these notoriously colorful terms here, it can be said in any case that anyone who has freedom with health protection in relation to each other, formulate risk-ethical priority and subordinate relationships

got to. These must be supported by good reasons for the cases in which freedom should give way to health protection - or vice versa.

In the first ad hoc recommendation on the Corona crisis of March 2020, the German Ethics Council already emphasized that freedom and health protection can only be placed in a good relationship if, in addition to individual ethical considerations, there is also a perspective of solidarity responsibility is included. The latter must address a complex and multifaceted Align understanding of social, intergenerational and international justice. When dealing with a pandemic, individual and supra-individual aspects should not be played off against each other, but should be related to each other in a way that is appropriate to the problem. This applies to both the relationship between individual and supra-individual ("public health") health protection and participation in important public goods that are of central importance for the well-being of people even during a pandemic (especially health and education systems). Against a fundamental and human rights background that emphasizes the intrinsic value and responsibility of every human being, the attempt to relate individual and supra-individual aspects of pandemic management to one another can be

The statement begins with a chronological overview of the course of the pandemic up to the end of January 2022. This is followed by a presentation of individual measures to control and contain the incidence of infection, which are evaluated in terms of their effectiveness, but also their problematic

⁸German Ethics Council 2021c.

consequences for individual groups of people such as for the health and education system as a whole should be critically appraised.

The descriptive-analytical chapter is followed by fundamental (social) anthropological considerations Vulnerability and resilience of people and institutions. In the past, these fundamental insights into the basic condition of human beings in their living environment, which is always also institutionally formed, were often ignored. However, the pandemic has now brought them very clearly into the public consciousness. On this basis, normative criteria are developed, which are reflected in ethical From the point of view of the Ethics Council, considerations of measures to combat the pandemic should play a central role.

The statement closes with the "translation" of the previously developed considerations into procedural and material requirements for ethical considerations of goods in the context of political decision-making processes. Concrete individual material aspects are named, which in the case of the critical

Consideration should be given to reflecting on or justifying future political measures to combat the pandemic. You can also new at future

emerging pandemics offer points of reference for responsible political decision-making and action.

2 Current status: review, experiences and challenges

An infectious disease that is spreading worldwide, high numbers of cases and severe disease progression is referred to as a "pandemic" (from ancient Greek παν pan "total, comprehensive, everything" and δῆμος dēmos "people").⁹Pandemics usually progress in several "waves". The term was introduced during the 1918 Spanish flu and describes a strong (exponential) and not only regional increase in the number of cases, which is only noticed with a time lag due to the incubation period and delay in reporting. A wave is "broken", i.e. its exponential growth is stopped, by introducing suitable protective measures. Section 2.1 outlines the course of the COVID-19 pandemic in Germany. Section 2.2 is dedicated to the protective measures that have been taken. In the further

Sections of the chapter deal with the complex consequences of the pandemic on the one hand and those related to it

Containment measures taken on the other hand are presented at different levels.

2.1 Phases of the pandemic: The course of the COVID-19 pandemic in Germany

The pandemic outbreak of the multi-organ infectious disease COVID-19, which is mainly transmitted by aerosols and is caused by the SARS-CoV-2 coronavirus discovered in 2019 (see info box 1), is also taking place in clearly recognizable regional waves. In Germany, this dynamic of the pandemic is usually presented using the 7-day incidence (see info box 2 in Section 2.1.2). This epidemiological indicator allows a timely depiction of the infection process, since it

Infections are detected at an early stage (possibly before the onset of symptoms) on the basis of a positive test result. In comparison, other key figures, such as the incidence of hospitalization, the occupancy of intensive care beds and deaths, trace the infection dynamics with a delay of several weeks. With increasing immunity of the population due to the growing proportion of vaccinated and

⁹See Robert Koch Institute 2015, 99.

recovered, the ratio of hospitalization and death to infection rates becomes more favorable. In addition, the occurrence of virus variants can affect the ratio of the rates. Because in a highly dynamic event like the spread of the virus, there are quick reactions are decisive, the incidence was an important decision-making criterion right from the start. Many measures to combat the pandemic (especially those that restrict public life) were linked to exceeding certain thresholds of incidence.

After the start of the vaccination campaign, indicators such as Hospitalization incidence, intensive care bed utilization and mortality (mortality) in political decision-making processes taken into account.

The infographic at the end of the publication summarizes the course of the COVID-19 pandemic in Germany. When interpreting them, it must be taken into account that the relationship between the incidence and the number of severe courses and deaths changes as the vaccination campaign progresses. Since vaccinated people have significantly less severe courses and, moreover, people with a higher risk of a severe course were vaccinated as a matter of priority, less severe cases of disease occurred with increasing vaccination progress with the same incidence. Because unvaccinated people have a much higher risk of infection, their share of the incidence number related to the total population increased at the same time. Furthermore, when comparing incidence values between the different pandemic waves, it should be noted that the Dark number of unrecorded cases of infection depending on the number of tests carried out (see Info box 4 in Section 2.2.3), the currently valid test strategy and the available ones test capacities is. Despite these limitations, the incidence remains an important reference value precisely because it is ahead of other indicators. It is the only way to independently adapt individual behavior based on a daily assessment of the general infection situation.

In addition to its wave-like infection dynamics, the temporal course of a pandemic can also be described using phase models. In its risk management for influenza pandemics, the World Health Organization (WHO) differentiates between four cyclically consecutive pandemic phases.¹⁰ Since in the case of influenza, after the pandemic is always before the pandemic, the WHO only speaks of "interpandemic phases". These go into an "alert phase" when the first outbreaks of a new influenza subtype make it appear possible that it will spread worldwide. The subsequent "pandemic phase" (pandemic phase) eventually leads to a "transition phase" (transition phase) in which the Weakening of the infection process the gradual reduction of measures of the Pandemic control possible. With reference to this model, the specific course of the COVID-19 pandemic in Germany will now be analyzed in more detail.

Info box 1 "The new coronavirus SARS-CoV-2"

The new coronavirus SARS-CoV-2

Corona viruses owe their name to their "prickly" appearance, which can be seen under the electron microscope and is reminiscent of a crown (lat. corona). The genome of the Severe Acute Respiratory Syndrome CoronaVirus 2 (SARS-CoV-2), which first appeared at the end of 2019, consists of a single strand of RNA (ribonucleic acid) and is very large for a virus with a length of around 30,000 nucleotides. The RNA sequence, with its so-called plus-strand polarity, is structured in such a way

¹⁰See World Health Organization 2017, 13 f.

that the genome can be read by the host cell immediately after the virus has penetrated and used as a template for the construction of virus proteins.¹¹

In terms of structure, the new SARS-CoV-2 is comparable to other beta-coronaviruses that have been known for a long time.¹²First, two large proteins are formed, and then these are broken down into several smaller proteins whose main job is to replicate (replicate) the viral RNA and correct errors that regularly occur in this process. In a second step, four structural proteins are built and assembled into new viruses: nucleocapsid protein,

Spike protein (spike protein), membrane protein and coat protein. The nucleocapsid protein packages the copied virus RNAs into a protein scaffold (the capsid). This in turn is surrounded by a lipid envelope into which the spike, membrane and envelope proteins are embedded. The membrane and envelope proteins contribute to the attenuation of the

Host cell defense so that the newly formed viruses are not attacked by the host cell.

The spike protein is of central importance for the infection process. With it, the virus docks onto the host cell and initiates the fusion process that enables the virus RNA to be introduced into the host cell. A specific binding site in the spike protein, the receptor binding domain (RBD), causes docking to a protein called angiotensin-converting enzyme 2 (ACE2), which is located in the host cell membrane. ACE2 is found in the surface tissue (epithelium) of numerous organs, such as blood vessels, kidneys, heart, liver, digestive and respiratory tracts. Its widespread distribution probably explains the complex effects of COVID-19 infection on different organs. Many antibodies that inhibit virus replication (so-called neutralizing antibodies) bind to the RBD segment in the spike protein, preventing the virus from attaching to a host cell. Therefore, the spike protein forms the basis of the currently approved vaccines.

2.1.1 interpandemic phase

The interpandemic phase is used to prepare for the next pandemic.

Remarkably, in 2008 the Public Safety Future Forum went together Green Paper on "Risks and Challenges for Public Safety in Germany".

example of the SARS virus, raises the possibility of a pandemic caused by coronaviruses.¹³One of the main reasons for this was the fear (which has now come true in the case of SARS-CoV-2) that viruses from this family of infected people could be spread before they show any symptoms of the disease.¹⁴The report said the country was not well prepared for a pandemic with a mutated SARS virus: "There is no uniform national emergency plan that includes a basic strategy to combat a pandemic. This makes crisis management difficult at all levels. It remains open whether the current federal structures of the health system and civil protection are the appropriate form of organization in the event of a Germany-wide epidemic".¹⁵

In a risk analysis from 2012, the Robert Koch Institute (RKI) together with the The Federal Office for Civil Protection and Disaster Assistance and other federal authorities modeled a worst-case scenario of a fictitious pandemic with a SARS-like virus (Modi-SARS) and had arrived at a course with several waves that is very similar to the development of the current pandemic. The probability of occurrence was given as "partly likely" (once in a period of 100 to 1,000 years).¹⁶The risk analysis

¹¹See Wu et al. 2020; Hu et al. 2021; Yang/Rao 2021.

¹²See Ziebuhr 2016.

¹³Reichenbach et al. 2008

¹⁴Ibid., 40.

¹⁵Ibid., 42.

¹⁶See Deutscher Bundestag 2013, pp. 55 et seq. (pandemic caused by the "Modi-SARS" virus).

2017 contains recommendations for action for infection control measures such as quarantine and others

Forms of contact reduction, protective clothing, disinfection, closure of schools and Kindergartens, cancellation of major events, mouth and nose protection masks and Contact person tracking by health authorities.¹⁷

The National Pandemic Plan of 2017 is intended to prepare authorities and institutions at federal and state level for a pandemic and forms the basis for the pandemic plans of the states and the Municipal implementation plans. Its most important goals are to reduce health damage in the population and to maintain health care and other essential public services.¹⁸ However, the pandemic plan does not build on the Modi-SARS risk analysis from 2012, but mainly deals with the annual waves of influenza. First experiences with the corona virus were published in 2020 in a "Supplement to the National

Pandemic plan" processed.¹⁹ The binding rules contained in the pandemic plan for stocking mouth and nose protection masks and protective equipment were obviously not sufficiently implemented, because they were themselves in some hospitals and doctor's offices

in short supply. Scientists therefore diagnose insufficient processing of risk analyzes by politicians: "The closure of day care centers, schools and universities, shops of all kinds and drastic restrictions on mobility with their serious macroeconomic consequences are searched for in vain in the NPP [National Pandemic Plan], perhaps also because because a (feared) lack of (intensive care) beds and protective equipment [...] was not considered possible."²⁰

2.1.2 alarm phase

From December 2019, the new coronavirus SARS-CoV-2 began to spread quickly in China, also because of the high level of mobility in the globalized world. On January 30, 2020, the WHO classified the COVID-19 outbreak as a "public health emergency of international concern".²¹ One Estimation of the effective number of reproductions R (see info box 2) for the beginning of March 2020 resulted in

Germany values of about 3.0.²² The exponential present at R values greater than 1.0 In many countries, the increase in the number of infections led to an overload of the health infrastructure and thus to even higher mortality.²³

A lack of knowledge about the new pathogen and the dynamics of the corona crisis caused fear and concern among the population and politicians in the initial alarm phase. Many tracked daily statistics on incidences and deaths, reproductive factor, and hospital and intensive care unit occupancy rates.

¹⁷See German Bundestag 2019, 31.

¹⁸Robert Koch Institute 2017, 7 ff.

¹⁹See Robert Koch Institute 2020.

²⁰See Summer 2020, 9-15.

²¹See WHO Director-General's statement on IHR Emergency Committee on Novel Coronavirus (2019-nCoV): [https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-you-emergency-committee-on-novel-coronavirus-\(2019-ncov\)](https://www.who.int/director-general/speeches/detail/who-director-general-s-statement-on-you-emergency-committee-on-novel-coronavirus-(2019-ncov))

²²See an der Heiden/Hamouda 2020, 15.

²³Linka/Peirlinck/Kuhl 2020.

The measures taken in this phase were discussed and questioned intensively, but received a lot of support and were also classified as justified overall by the German Ethics Council.²⁴

Info box 2 "Epidemiological indicators"

Epidemiological indicators²⁵

*incidence:*In epidemiology, the frequency of occurrence of a disease is determined by various statistical factors. Measures determined in more detail, the statements about the relative frequency of newly occurring cases of disease in a specific

enable population. In Germany, the 7-day incidence is the most important epidemiological index for the Assessment of the development of the infection process during the COVID-19 pandemic. It indicates the laboratory diagnostically proven and registered new infections per 100,000 inhabitants over a period of one week. Depending on the test activity, however, this number can deviate significantly from the actual relative frequency of newly occurring cases of infection. This dependency explains the very different information on the international comparison. Lethality in the first phase of the pandemic. For Germany, the Robert Koch Institute calculates on the basis of the The number of cases and the 7-day incidence for the individual federal states, rural and urban districts, and age cohorts were reported to health authorities.

*reproduction numbers:*The reproduction numbers of a pathogen provide information on how many people are infected on average by a person infected with it (= number of secondary infections). The basic reproduction number R_0 denotes the mean secondary infection rate of an infected person under circumstances that are most likely to be present at the beginning of an epidemic. R_0 assumes that a population does not yet have immunity through vaccination or an infection that has already been suffered and that no protective measures have yet been taken. According to the RKI, the basic reproduction number of the wild type (= original form) of SARS-CoV-2 is between 2.8 and 3.8. The virus is therefore considered highly infectious. In the case of the delta and omicron variants in particular, R_0 should be significantly higher.

In the course of a pandemic, time-dependent net reproduction numbers R_t can be used to calculate, for example, the To quantify the effectiveness of protective measures based on the reduction of the risk of infection. It applies that the New infection rate increases exponentially when R_t is greater than 1. Values less than 1, on the other hand, show a decreasing trend

new infection rate. The aim of all measures is to keep the R_t value constantly below 1.

During the COVID-19 pandemic, the RKI publishes a daily 7-day R value that occurs from day to day. Fluctuations are compensated and thus the trend in the new infection rate can be reliably estimated.

*Hospitalization incidence:*Hospitalization incidence generally represents the number of hospital admissions over a given period of time. Since July 2021, the RKI has been continuously publishing the number of people with COVID-19 who were admitted to hospital per 100,000 inhabitants over the past seven days. The hospitalization incidence is better suited than other indicators of pandemic development to indicate that the health system is threatened to be overwhelmed due to exhausted resources in inpatient acute care. In particular

In some contexts, it is even more meaningful to determine the number or proportion of ICU beds occupied by people with COVID-19. However, the number of treatment places for people seriously ill with COVID-19 is smaller than the number of intensive care beds because their care requires special equipment such as extracorporeal lung support, which is often only available in university hospitals.

²⁴See German Ethics Council 2020a.

²⁵https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Profile.html;

https://www.rki.de/DE/Content/Service/Publikationen/Fachwoerterbuch_Infection_Protection.pdf?__blob=publicationFile

2.1.3 pandemic phase

On March 11, 2020, the WHO declared the outbreak of the novel coronavirus a pandemic.²⁶After the RKI classified the health risk for the population in Germany as “high” in mid-March²⁷, the Bundestag determined an “epidemic situation of national importance” in its decision of March 25, 2020.²⁸The Federal Government and the federal states imposed contact and entry restrictions as well as the closure of numerous shops and public facilities such as daycare centers, (university) schools and religious meeting places.²⁹ In many places, leaving one’s own home was only permitted if there were good reasons, or staying in public spaces at most “alone, with another person not living in the household or with members of your own household”.²⁹At the beginning of the first wave it came to hamper purchases of everyday goods, as it seemed unclear how the pandemic would affect the supply situation.

In addition to the contact restrictions, protective measures were recommended or introduced that combine keeping your distance from other people, washing your hands and hygiene when coughing and sneezing as well as wearing everyday masks as an “AHA formula”.³⁰In June 2020, a Corona warning app was launched to supplement contact tracing by the Health authorities introduced: It alerts its users if they have been in the vicinity of people who have reported evidence of a COVID-19 infection via the app for a long time.³¹Hygiene and ventilation concepts have been developed in many facilities. Protective equipment, medical and FFP2 masks were in short supply during the first wave.

Reliable tests to determine whether a person is infected with the virus have proven to be important tools in the fight against the pandemic. During the pandemic phase, the various methods were (further) developed and test capacities expanded. The health authorities followed the contacts of those who tested positive and prescribed isolation or quarantine measures to contain the spread of the virus. However, contact tracing was no longer effectively possible at higher incidences due to a lack of staff and insufficient digital infrastructure in the authorities (cf. Section 2.2.4).

In order to get a better overview of the burden on the healthcare system, in March 2020 an online platform for real-time recording and analysis of intensive care

²⁶<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>

²⁷https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Situationsreports/2020-03-17de.pdf?__blob=publicationFile

²⁸<https://www.bundestag.de/dokumente/textarchiv/2020/kw13-de-corona-fection-protection-688952-29-and-the-heads-of-government-of-the-federal-states-in-view-of-the-corona-epidemic-in-germany-1730934>;

<https://www.bundesregierung.de/breg-de/themen/coronavirus/betreffung-von-bundestkanzlerin-merkel-mit-den-regierungschefinnen-und-regierungschefs-der-laender-zum-coronavirus-1733266>;

<https://www.bmi.bund.de/SharedDocs/pressemitteilungen/DE/2020/03/corona-reisebeschraenkungen.html>

²⁹<https://www.bundesregierung.de/breg-de/themen/coronavirus/betreffung-von-bundestkanzlerin-merkel-mit-den-regierungschefinnen-und-regierungschefs-der-laender-zum-coronavirus-1733266>

³⁰The combination of precautionary measures was subsequently expanded to include regular ventilation (AHA+L) and the use of the

Corona warning app (AHA+L+A) extended. Instead of the “everyday masks”, the motto “Wear a mask in everyday life” later appeared in the formula. <https://www.reinigungsschutz.de/coronavirus/alltag-in-zeiten-von-corona-02/14/2022>.

³¹<https://www.bmi.bund.de/SharedDocs/kurzmelden/DE/2020/06/vorstellung-corona-warn-app.html>

Treatment capacities and COVID-19 case numbers set up.³²This so-called “DIVI intensive care register” (www.intensivregister.de) is operated by the German Interdisciplinary Association for Intensive Care and Emergency Medicine (DIVI) and the RKI.

After a phase with low incidences in the summer of 2020, a second wave developed from October 2020, which peaked in December 2020. Been again Contact restrictions and closures in education, culture and sports as well as in retail and gastronomy imposed. Around the turn of the year, the first vaccines were approved in the EU and the vaccination campaign began. In the first months of the year In 2021, the incidence value initially fell, but the third wave built up as early as the beginning of March – among other things as a result of the rapid spread of the alpha virus variant B.1.1.7. Nevertheless, the federal-state conference decided to carefully relax the corona measures, for which the introduction of rapid and self-tests was used as justification in addition to the vaccination campaign, which was slowly picking up speed.

The third wave ended in April and the number of infections remained stable and low throughout the summer of 2021. After the prioritization of vaccinations was lifted in June, everyone who wanted to be vaccinated could get vaccinated. However, because the vaccination rate fell short of expectations, warnings of a “fourth wave” that could hit Germany in the winter months increased from virology and epidemiology. By early September, only about 62 percent of the total population was fully vaccinated, and vaccination rates were increasing at a slower pace.³³

At the end of October 2021, the 7-day incidence reached the 100 mark, then increased further to over 400 within a month, more than doubling the previous peak recorded in December 2020.³⁴The statistics also showed the effect of vaccination: During November, there were very high numbers of new infections, especially in the federal states with a comparatively low vaccination rate, which also Intensive care capacities in many hospitals were pushed to their limits again. Many patients had to be transferred – sometimes even to other federal states. The fact that the fourth wave of infection in autumn 2021 was higher than all previous waves of infection can be explained by a number of other factors in addition to the low vaccination rates. Pandemic fatigue and a false sense of security as the Vaccination campaigns in the summer had persuaded many people to travel more again and limit contacts less consistently than before. In addition, there was a growing number of vaccine breakthroughs that had not been expected to such an extent. This can be attributed to the fact that immunity varies from person to person, even after two vaccinations, and decreases again after a few months. The STIKO then recommends a booster vaccination (so-called booster vaccination), which should be administered three months after the last vaccine dose of the primary immunization. In any case, protection against severe disease progression is still longer after a vaccination – even in the case of infection with one of the virus variants

³²<https://www.divi.de/presse/presseschriften/pm-corona-pandemie-website-zur-deutschland-weit-abfrage-freierventilatorsplaetze-startet-heute>

³³Weekly report of the Robert Koch Institute from September 9th, 2021 on COVID-19, https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Situationsreports/Wochenbericht/Wochenbericht_2021-09-09.pdf?__blob=publicationFile

³⁴Archive of the RKI’s daily situation reports on COVID-19, https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Situationsreports/Archiv_tab.html

- high. This is shown statistically by the ratio of lower hospitalization and mortality rates in relation to the incidences during the fourth wave, when part of the population was already fully vaccinated, compared to the first and second waves of the pandemic (see infographic).

Parallel to the start of the booster vaccination campaign, a 3G rule was decreed at the end of November 2021 in local public transport and at work, according to which either proof of vaccination or recovery or the current certificate of a negative corona test must be presented at any time. 2G rules were even introduced in many other areas of public life, so that the unvaccinated no longer had access to various leisure activities and services. Despite these and all other measures, the incidences began to rise again before the turn of the year. Without a real trough being reached, the fourth wave of the pandemic was immediately followed by the fifth. The main reason for this was the emergence of a new variant, the omicron virus variant, which became dominant in early January 2022. Since the omicron variant is much more contagious than all previous variants, the number of COVID-19 cases is reaching new highs at the time of writing this statement at the end of January 2022. The only consolation is that the incidence of hospitalization and deaths are not increasing to the same extent because infections with the omicron variant result in milder disease courses on average. Accordingly, there is increasing discussion about which pandemic protection measures should or may be maintained. because infections with the omicron variant result in a milder course of the disease on average. Accordingly, there is increasing discussion about which pandemic protection measures should or may be maintained. because infections with the omicron variant result in a milder course of the disease on average. Accordingly, there is increasing discussion about which pandemic protection measures should or may be maintained.

2.1.4 transition phase

All indicators currently suggest that the virus will not be finally eradicated, not least because of its reservoirs in the animal kingdom, but also because of its worldwide distribution, even in largely isolated populations. The future development depends, among other things, on how well the contact tracing and the control of contact-restricting measures succeed in the event of renewed waves, how quickly the virus variants are reacted to and how intelligently the long-term effects are reacted to. It is to be expected that the virus will become endemic in Germany and will therefore only be one of many pathogens.

In order to achieve a controllable endemic situation, comprehensive vaccination of the population is necessary - with surviving infections also strengthening the immune system. Since the vaccinations currently do not provide "sterile immunity" in which the transmission of the pathogen to third parties is completely prevented, COVID-19 diseases will continue to occur. However, if in future vaccinated and recovered people mostly only meet vaccinated and recovered people, the incidence of infection will probably be reduced to such an extent that there will no longer be an exponential growth in incidences - provided that no more infectious new virus variants occur. This would then also eliminate the risk of the healthcare system being overburdened, since the vaccination very reliably protects against serious,³⁵

³⁵https://www.rki.de/SharedDocs/FAQ/COVID-Impfen/FAQ_Liste_Wirksamkeit.html#FAQId16602074

However, it is not enough to look at the fight against the pandemic only in the German context. It can only be successful in the long term if it succeeds in preventing the emergence of new ones worldwide curb virus variants (see info box 3). With each replication process of the virus

"Errors" in the blueprint of the virus occur; one then speaks of virus variants. Most of these mistakes reduce the ability of the virus to spread successfully (the so-called fitness). However, changes can also occur which give the virus a selective advantage over previous variants and the parent virus through increased infectivity and a reduction in the immune protection acquired through the disease or vaccination. These can lead to a heavier, but also – as the omicron variant shows – to a milder one lead to disease progression.³⁶The more infections occur worldwide, the higher it is

Probability of formation of virus variants. It is therefore also crucial for the success of the measures taken in Germany whether there are high numbers of infections elsewhere, which can trigger further global waves of disease by promoting the emergence of new, contagious virus variants. It should also be noted that an insufficient vaccination rate creates selection pressure that favors the spread of escape variants of the virus - i.e. variants against which the existing vaccines are not effective. This effect is with that

The emergence of resistant bacteria when the dose of antibiotics is too low is comparable, since the pathogen is given the opportunity to adapt to the new conditions in the human host.

The spread of escape variants of the virus can reduce the effectiveness not only of existing vaccines but also of drugs (such as antiviral antibodies). The WHO is coordinating a global surveillance system that collects data on emerging variants of SARS-CoV-2 using random sequencing of the whole or partial genome. This provides information that can be used at an early stage to adapt vaccines and to improve the accuracy of fit of antiviral antibodies and inhibitors. New technologies such as mRNA technology, with which effective vaccines against SARS-CoV-2 were developed in a very short time, also promote rapid adaptation. A major goal remains the development of universal vaccines,³⁷The more comprehensively the viral genome is researched and the importance of mutations for infectivity and the course of the disease is known, the better the risk can be posed by new ones Variants can be predicted and vaccine development can be optimized from a biomedical point of view.

In addition, accelerated approval procedures for vaccines, such as those used in the COVID-19 vaccines that have already been used must be further established. It has to be over Speed and efficiency without sacrificing security.

Info box 3 "Virus variants"

virus variants³⁸

Errors (mutations) occur during the replication of the viral genome, which can produce virus variants. In SARS-CoV-2, such errors are corrected 10 times more efficiently than in influenza viruses thanks to the quality control proteins built into the genome, but the more virus replication takes place, the more variants can form.⁴⁰

The probability of the emergence of new virus variants therefore correlates with the number of infections. one gets infected

Person with several virus variants at the same time can even exchange their genetic material and its

³⁶See Tao et al. 2021

³⁷See Planas et al. 2021; Pouwels et al. 2021

³⁸https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/Virusvariant.html 40 Cf. Tao et al. 2021

Reassembly (recombination) coming. In this way, complex combinations of changes can arise.

The worldwide sequencing of virus variants showed that mutations occur more frequently in the spike protein, but that other viral proteins are also affected. Mutations change the spatial structure of proteins and their binding properties and can thus lead to virus variants whose transmissibility is increased, for example through more efficient penetration into host cells. If antibodies that bind to known virus variants no longer match well with a new variant, this can also undermine the previously built-up immunity of a host. Both processes mean that such new variants have a selective advantage and spread quickly. An example of complex changes is the omicron variant, which carries more than 30 mutations in the spike protein. Some of the mutations detected in omicron are also found in the alpha and delta variants, while others are new.

Based on information from more than 2 million sequenced SARS-CoV-2 RNA genomes, an assignment of Virus variants to different lines possible.³⁹To enable classification and the preparation of To support measures to combat the pandemic, the WHO distinguishes between those that appear to be risky variants⁴⁰: Variants of concern are more infectious and/or cause a more severe course of the disease or can be combated less effectively with established measures. Examples of this are the SARS-CoV-2 variants alpha, beta, gamma, delta and now omicron. A second category includes variants of interest. These either leave elevated because of their mutations Pathogenicity (disease potential) expect or have the potential to spread worldwide with corresponding risks for public health systems. A third category, variants under monitoring, includes virus variants with only potentially high-risk mutations. Due to continuous global monitoring, worrying developments can be identified at an early stage.

2.2 protective measures

Various protective measures were taken during the course of the COVID-19 pandemic to contain the spread of the pandemic, to protect people in this country from illnesses and to protect the public health care system from the risk of excessive demands or even triage situations. They were more severe during the first wave of infection than in subsequent waves. Epidemiological model calculations contributed together with the Shocking stories and images from ICUs in Italy, Spain and France are contributing to the acceptance of rapid and effective interventions.⁴¹

The political decisions to fight the pandemic were made under conditions of great scientific uncertainty, especially at the beginning but also in later phases of the corona crisis.⁴²This applies not only to the level of knowledge about SARS-CoV-2 and what it causes Disease also the desired and undesirable effects and side effects of protective measures.⁴⁵

In view of the direct health risks emanating from the new virus, Disease risks and infection risks are distinguished. The risk of a severe, potentially fatal course of COVID-19 is statistically significantly higher in older people and those with certain previous illnesses. The risk of infection depends on the regional distribution of the

³⁹See Rambaut et al. 2020

⁴⁰<https://www.who.int/en/activities/tracking-SARS-CoV-2-variants>

⁴¹See for example for Italy Nacoti et al. 2020

⁴²For the general problem of pandemic policy decisions under uncertainty see Munthe/Heilinger/Wild 2021. ⁴⁵ It was not until 2021, for example, that the StoptCOVID study was initiated with funding from the Federal Ministry of Health, which systematically examines the effectiveness and effect of non-pharmaceutical measures to control COVID-19 - Pandemic investigated in Germany (https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Projekte_RKI/StopptCOVID_studie.html).

Virus, on individual behavior, but above all on the living and working conditions. In general, there is an increased risk of infection wherever physical proximity between people cannot be avoided, such as in communal facilities (cf. Section 2.3.1).

2.2.1 basic protection measures

The basic protective measures that can be implemented individually include some basic hygiene rules, which are intended to help prevent infection with SARSCoV-2, which is mainly transmitted from person to person via aerosols. These relate, for example, to coughing and sneezing correctly, washing your hands regularly and thoroughly, and household hygiene. There are also distance rules, requirements for wearing a mouth and nose cover (mask) and recommendations for regularly airing closed rooms and using the Corona-Warn-App.⁴³

Wearing a mouth and nose cover was prescribed in different forms in different phases of the pandemic and for different areas of public life - such as public transport and buildings, shops and other commercial premises, sometimes also for gatherings of people outdoors. Surgical masks have a lower protective effect than so-called FFP2 (and comparable) masks, which are also used to protect medical staff who are in direct contact with patients suffering from COVID-19. At the beginning of the pandemic, medical masks with high protection levels were not available in sufficient numbers and they were expensive. For this reason, reusable textile everyday masks were initially used in both private and professional contexts.

Shortages of medical masks even occurred in many areas of health care, nursing and social services. Medical masks were often worn several times or everyday masks were also used in these areas. Doctors, employees in the fields of nursing and social work and many other members of professional groups who work in direct contact with other people were therefore often exposed to high risks of infection, especially in the early days of the pandemic. In a pandemic prepared In the healthcare system, this could have been avoided with little effort.

The obligation to wear masks certainly objectively represents a comparatively small impairment, which subjectively, however, is seen differently by some people. Apparently, the mask has become a symbol of a hated pandemic policy, especially in the circles of so-called lateral thinkers. In September 2021, there was even a homicide in the context of a dispute over the obligation to wear masks, and warnings about radicalization of mask opponents increased.⁴⁴ That the protective effect of masks, which is now well scientifically proven⁴⁵, which was initially doubted by some experts⁴⁶, has certainly not promoted their acceptance.

⁴³<https://www.infection-protection.de/coronavirus/alltag-in-zeiten-von-corona.html>

⁴⁴<https://www.aerzteblatt.de/nachrichten/127488/Politiker-beklagen-Radikalisierung-von-Maskengegnern>

⁴⁵See Mitze et al. 2020; Howard et al. 2021; Bagheri et al. 2021

⁴⁶The chairman of the World Medical Association, Frank Ulrich Montgomery, described it in a statement given in early January 2022

Interview himself as a mistake that at the beginning of the pandemic he denied the benefit of "a damp cloth in front of the face" (Neue Zürcher Zeitung of January 8th, 2022, p. 40, <https://www.nzz.ch/feuilleton/frank-ulrichmontgomery-i-am-not-a-quarrelsome-person-ld.1663599>).

Compliance with distance rules – including outdoors – is generally recommended and is even mandatory in various areas in order to limit the number of people who are allowed to be in a shop, event or classroom, for example. In addition, keeping distances should be promoted through traffic route regulations.

2.2.2 Movement and contact restrictions

The central pandemic protection measures include movement and contact restrictions with the aim of curbing the spread of the virus. On the one hand, a distinction must be made between direct restrictions on movement and meeting opportunities, such as those imposed during a strict lockdown, for example through curfews or physical barriers ("protection zones"), and on the other hand the mere restriction of movement and contact opportunities by closing shops, restaurants, cultural and sports facilities, educational and other facilities - the so-called shutdown.

Although the first phase of contact restrictions from mid-March 2020 is remembered as the "hard lockdown", in Germany - unlike in many other countries - there were largely no curfews. However, the regulations made provided for restrictions on how many people could meet in private spaces - and sometimes also outdoors - at different phases of the pandemic. In the first phase of the pandemic in particular, people were asked to stay at home as much as possible and to protect risk persons by not visiting. At times, only one person who did not belong to the household was allowed to be visited. Based on the movement data from mobile phones, it was possible to prove that the contact restriction measures were largely complied with.⁴⁷

Due to the importance of major events for the infection dynamics, these were largely canceled and banned over a period of more than a year. Only gradually were major events made possible again, first with the use of rapid tests, then in compliance with the so-called 3G rule (vaccinated, recovered and currently negatively tested). Crèches, kindergartens and schools were closed for long periods of time or only opened to a very limited extent - as emergency care for the children of parents who work in so-called systemically important areas, or for schoolchildren in final classes. Colleges and universities worked almost entirely in digital mode for three semesters and returned to it after a temporary opening in autumn 2021.

Employers have been asked to allow their employees to work from home wherever possible. However, generally binding requirements for employers have largely been dispensed with. Trade, culture, leisure and sport were severely affected by contact restrictions or closures. Social and cultural life lay largely idle. Employees in accommodation establishments, gastronomy, cultural, leisure and sports facilities as well as Artists could not work, which was due to short-time work benefits and Compensation payments was at least partially compensated. The public practice of religion was also severely restricted. In many cases, digital event formats were offered as a substitute.

In principle, the Infection Protection Act allows the closure of community facilities to prevent the spread of communicable diseases. Especially in the first wave of the pandemic, numerous outpatient

⁴⁷See Schlosser 2020.

and inpatient nursing and care facilities, day clinics, workshops for people with disabilities, but also meeting points and contact points, for example for the homeless or psychiatric patients, were closed to prevent outbreaks of infection. Transport services for people with disabilities have been discontinued. After the first wave, many of these facilities and services became associated with hygiene protection concepts

Restrictions (e.g. mask requirement, distance requirement, limitation of the number of people in the room, test regime) open again.

The consequences of the prescribed protective measures for communal accommodation such as long-term care residential facilities and integration assistance, where particularly vulnerable people live together without being able to effectively keep their distance, were particularly drastic. General visiting bans and curfews were issued in these facilities early in the pandemic. Community activities have been suspended or severely restricted. The aim was not only to protect the residents themselves, but also the general public from the consequences of outbreaks of infection. After public criticism of the situation of many people who depend on professional care, the federal states modified the infection protection ordinances in May 2020 in order to prevent the protective measures in clinics,

Nursing homes, senior and disabled facilities lead to the complete social isolation of those cared for there. In November 2020, an amendment to the Infection Protection Act stipulated that “a minimum level of social contact” in health or social care facilities must be guaranteed despite all protective measures (§ 28a Para. 2). The German Ethics Council confirmed and specified this demand a little later in its ad hoc

Recommendation "Minimum social contacts in long-term care during the Covid-19 pandemic".⁴⁸ Even if the progress of the vaccination campaign and the increasingly easy availability of rapid tests later led to further relaxation of the visitation and contact regulations in community accommodation made possible, the people living there are still badly through Pandemic protection measures restricted.⁴⁹

In the judiciary, contact restrictions not only led to considerable impairments in organizational processes and even to the impairment of core tasks. For example, at the beginning of the pandemic, oral negotiations with those involved and personal hearings were sometimes dispensed with entirely for reasons of infection control. After some time and as a result of a number of decisions by courts of appeal, the insight prevailed that the judiciary must also carry out its tasks during the pandemic and that it should not be a matter of whether an oral hearing or a personal hearing is held, but exclusively of the manner in which it is carried out. In civil proceedings, for example, the statutory option of an oral hearing or taking of evidence via video conference (§ 128a ZPO) was increasingly used. The family and guardianship courts could also conduct an oral discussion or personal hearing in this form (§§ 32, 34 FamFG). However, this presupposed that the right to be heard by those involved was sufficiently guaranteed. Judicial hearings of people with mental illnesses and older people with

⁴⁸See German Ethics Council 2020b.

⁴⁹See, for example, the current recommendations of the RKI on dealing with COVID-19 diseases in reception facilities and communal accommodation for those seeking protection (https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/AE-GU/recording_facilities.html [02/15/2022]).

changes in dementia must therefore usually take place in person.⁵⁰ Further suggestions, also in these cases to be heard via video conference for reasons of infection protection,⁵¹ have not become law.

The decisions on the various contact restriction measures mentioned here could not be waited until there was reliable knowledge about their effectiveness and their indirect psychological, social and economic consequences for individual people or groups of people. Given the novelty of the threat posed by the pandemic, this was unavoidable. However, there is criticism that no systematic data collection was carried out on the use of contact restrictions, so that their consequences and side effects are still only insufficiently known.⁵²

In the scientific discourse, the contact restriction measures were sometimes criticized as not being consistent enough. Ultimately, this means that they have to be maintained for longer. A European group of scientists called for the introduction of a no-COVID strategy. With very consistent contact restrictions, it is possible to reduce the 7-day incidence to below ten. Where this is successful, green zones could have more freedoms are introduced. Model calculations showed that in this way the duration of Contact restrictions could be reduced, which would also benefit the economy⁵³ and reduce the likelihood of new, more dangerous virus variants emerging. However, it has been shown in southern Italy, for example, but also in other regions of Europe, that even extremely low incidences do not offer reliable protection against a later rapid increase. Another strategy, called Zero Covid, called for an even tougher approach, with the economy with strict and binding requirements for infection control measures duty to take.⁵⁴

In favor of these strategies, it can be argued that incidences can be reduced quickly and effectively and kept permanently low by means of contact tracing and isolation or quarantine. The shorter duration of strict contact restrictions also means less stress for everyone. On the other hand, it could be argued that these strategies impose disproportionate and unequally distributed burdens on the economy and on the population as a whole.

2.2.3 test strategy

Test procedures are used to detect a SARS-CoV-2 infection when symptoms of the disease occur, to identify asymptomatic virus carriers and to check the extent to which infectiousness still exists after an illness. The use of these methods starts on two levels: On an individual level, infected people should be identified early, isolated, medical monitoring and treatment should be carried out. In addition, interpersonal encounters are made possible without the risk of infection. Chains of

⁵⁰See BGH, decision of October 14, 2020 - XII ZB 235/20.

⁵¹Federal Council draft law of July 1, 2020, BT printed matter 19/20623. <https://dip.bundestag.de/vorgang/gesetz zum-schutz-vulnerabler-personen-bei-richterlichen-anh%C3%B6rungen-im-betreuungs/261988>

⁵²Christian Endt and Sören Müller-Hansen: Flying blind through the pandemic. *Süddeutsche Zeitung* of March 29, 2021, p. 13 (<https://sz.de/1.5248148>).

⁵³See Baumann et al. 2021; Priesemann et al. 2021

⁵⁴ZeroCovid. "Position Papers", March 24, 2021. <https://zero-covid.org/positions-papiere>

infection are to be identified and broken at the population level in order to contain the incidence of infection and to record its dynamics in the population.

Antigen tests in particular were widely used to reduce the risk of infection in direct contact in schools, companies, trade, gastronomy, cultural and sports facilities as well as in the private sphere. With the help of initially economically attractive reimbursement rates from tax funds, a nationwide supply by private test centers was created within a few months. However, the combination of lucrative state funding based on the number of cases, a lack of control and the shared interest of tested and testing people in a negative result led to significant quality defects.

From March 1st to October 11th, 2021, antigen tests were available to everyone in Germany free of charge as so-called citizen tests. As a result of a new version of the Federal Ministry of Health's (BMG) coronavirus test regulation, the tests were then temporarily subject to a fee. This led to a rapid decrease in the use of the

Tests in large sections of the population, which is why their costs were again borne by the federal government from November 13, 2021.

Furthermore, with the SARS-CoV-2 Occupational Health and Safety Ordinance, all companies, institutions and administrations nationwide were obliged from April 23, 2021 to offer employees who do not work from home an antigen or PCR test at least twice a week. Also in April 2021, mandatory tests in schools were introduced at state level. In its new version of July 30, 2021, the coronavirus entry regulation required all persons who have reached the age of twelve to enter the Federal Republic of Germany to provide proof of a test or alternatively either proof of recovery or proof of vaccination. With the amendment to the Infection Protection Act of November 24, 2021, all unvaccinated employees were obliged to present a daily negative test certificate when entering the workplace ("3G at the workplace"). In this context, employers are authorized to

Query the vaccination status of their employees. For employees in care facilities and

Disabled assistance is subject to an obligation to test with an antigen test that is updated daily or is no more than 48 hours old

PCR test also for vaccinated or recovered staff, as well as for visitors to the facilities.

Info box 4 "Test procedure"

test procedure⁵⁵

*PCR test:*The PCR test (polymerase chain reaction test) was the first method available to detect a SARS-CoV-2 infection and was developed in January 2020. It detects viral genome sections and is basically also suitable for differentiating between different virus strains. The PCR test is considered the gold standard among the test methods currently available, as it is the most reliable way of detecting infections. If a test performed using a different method delivers a positive result, the actual presence of a SARS-CoV-2 infection must be confirmed by a PCR test.

*antigen test:*Antigen tests were introduced in test centers in October 2020 and can also be used by medical laypersons as a self-test since March 2021. In addition to being easier to use, their shorter evaluation time of only about 15 minutes ("rapid test") and their lower costs are further advantages over PCR tests. On the other hand, they sometimes have a significantly lower sensitivity than PCR tests. Schools, public institutions and private individuals can use them relatively easily, for example to ensure greater security at events. The sample is taken from an oral or nasopharyngeal swab. The widespread use of anterior nasal swabs leads to a higher rate of false negative results. The test does not react to the genetic material of the virus, but on the viral coat protein or the viral nucleocapsid protein, so-called antigens, which are specific to the virus.

⁵⁵https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Vorl_Testung_nCoV.html; <https://www.infection-protection.de/coronavirus/tests-auf-sars-cov-2>; <https://www.pei.de/DE/newsroom/dossier/coronavirus/testsysteme.html>; [https://www.bfarm.de/DE/Medicine/Products/Tasks/Special Themes/_node.html](https://www.bfarm.de/DE/Medicine/Products/Tasks/Special%20Themes/_node.html)

These bind to complementary antibodies on the test strip. The antigen-test-antibody complexes produce a color marking, which indicates a positive result.

Antibody test: In contrast to the other methods, an antibody test does not indicate a current infection, but is usually carried out after recovery or to check the success of the vaccination. The test procedure detects antibodies in the blood that the body produces after an infection or vaccination to recognize the virus or vaccine antigens. Because that immune system needs time for the formation of specific antibodies, an infection can be in the early stages with this procedure cannot be determined. On the other hand, infections from a long time ago can be detected, since the antibodies remain for several months after they have been overcome. Antibody tests only detect antibodies produced by B cells, i.e. "humoral" immunity, while T cell-mediated "cellular" immunity is not addressed. If there is a sufficient antibody titer and, in particular, sufficient neutralizing antibodies are present, the body has at least partial protection against (re)infection.

In order to make a more precise prediction about a later immune response, neutralizing antibody tests must be performed. In these tests, antibodies are brought into contact with corona viruses in vitro and it is tested in the cell culture whether an infection can be prevented in this way in order to check the effectiveness of the antibodies present. For reasons of laboratory safety, these tests can only be carried out in special laboratories and are extremely complex, making them unsuitable for routine use.

2.2.4 contact tracing

In order to be able to identify and break chains of infection, effective tracing of the contacts that infected people have had is necessary. In Germany, this task is essentially performed by the health authorities on the basis of the Infection Protection Act in conjunction with relevant infection protection ordinances. Testing centers that determine a SARS-CoV-2 infection based on a positive test result are obliged to report the available data on the person concerned (the so-called index case) to the responsible health authority. During the COVID-19 pandemic, the authorities generally contacted infected people by telephone. In the course of an in-depth survey, it was determined on the one hand that where or with whom the index case could have been infected (so-called reverse investigation). On the other hand, an attempt was made to find out which other people could have been infected through contact with the index case (so-called forward determination).⁵⁶The contact persons were then informed about the possibility of infection and advised on the measures to be taken.

Contact tracing is widely considered to be an effective measure in infection control and is used worldwide.⁵⁷ However, it is very labour-intensive and expensive; especially in young people with many contacts are 100 and more. Contact persons who have to be traced per index case are not uncommon.⁵⁸ Also is the follow-up always depends not only on the people surveyed having a good memory, but also on their complete willingness to provide information. In addition, the health authorities therefore used contact data that various companies and facilities had to collect from customers, guests and participants in events. But even this information was often incomplete. In addition, the collection of

⁵⁶RKI: Contact Person Tracking (KP-N) for SARS-CoV-2 infections, 1.4
https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/Kontaktperson/Management.html#doc13516162bodyText5

⁵⁷See Kretzschmar 2020; Eames and Keeling 2003.

⁵⁸The following description of the situation in the health authorities during the Corona crisis is based, among other things, on personal information from Dr. Bernhard Bornhofen, the head of the city health office in Offenbach am Main, who was kind enough to share his first-hand experience with the Ethics Council.

contact data, which has meanwhile become customary, using lists to be filled in by hand in restaurants, for example, posed serious problems under data protection law.

Phone contact person tracking cannot be automated, it must be done by employees of the health authorities are carried out. In the initial phase of the COVID-19 pandemic, doctors and hygiene inspectors were involved in the task. With the increasing number of cases and the corresponding multiplied number of contact persons, the work could no longer be carried out sufficiently quickly by the specialist staff of the health authorities, so that employees from other administrative areas were used after usually only brief training. Furthermore, members of the Bundeswehr and students could be used for support. However, this had limited success because, in addition to empathy and patience, medical knowledge is also very helpful for successful contact person tracing, for example when it comes to appropriately answering questions from the persons contacted. There were also regular language barriers that had to be overcome with interpreters. In addition, tracking has its limits when it comes to dealing with people without a fixed address or telephone.

Health authorities, which already had a good digital infrastructure before the pandemic, sometimes used software from which the health authorities themselves, but also the RKI, used the input data conclusions about the course of the pandemic. An established digital
However, contact person tracking does not exist in this country so far. The data quality also suffered with the increase in untrained staff.

Bottlenecks occurred time and again during the course of the pandemic – especially when the incidence was high
health authorities, so that contact tracing could not be carried out effectively. Because of the ongoing contact tracing, but also because of many inquiries from the population, telephone connections were often permanently blocked. In many cases it was no longer possible to reach employees of the health authorities on the regular telephone numbers. Partly had to
Facility managers turn off phones to ensure organization and execution of procedures and procedures. Communication between the offices was often only possible via the private cell phone numbers of the employees there. Electronic data exchange between health authorities, for example in the case of larger outbreaks, was not possible in the initial phase and is currently only rudimentarily possible with the SORMAS software. In addition, there are various rapidly developed isolated digital solutions that are not always compatible. Despite many additional working hours, some health authorities were up to two weeks behind in tracking, so that it was sometimes no longer possible to interrupt the chain of infection in the second and third waves. Rather, the incidence values fell at some point due to the general protective measures and contact restrictions. There have been several public complaints that the downsizing in recent decades has significantly reduced the capacities of the health authorities that are available in an emergency.

As part of the fight against the pandemic, various technical aids have been used
Tracking of infection chains developed, such as the Corona-Warn-App or other tools for

Contact tracing support.⁵⁹The Corona-Warn-App was developed as an open source application on behalf of the federal government.⁶⁰With the help of the Bluetooth technology used, the distance and duration of encounters between people can be recorded, so that if you meet a person who has tested positive, the Corona-Warn-App will inform you that you now have an increased risk of infection and will then test yourself should let. The prerequisite for this is that people report the receipt of a positive test result in the app. The contact information is only recorded on the end devices on which the app is installed and not centrally - for example with the health authorities. This approach was controversial from the start.⁶¹Due to the decentralized model of the German Corona-Warn-App, the health authorities did not have access to the contact details. Since the use of the app was also voluntary, it only recorded a small part of the infections. The high priority given to data protection when developing the Corona-Warn-App may have contributed to its acceptance. In addition, central data collection would not have solved the bottlenecks in contact person tracing by the health authorities, which were apparently the real problem. The German However, Corona-Warn-App could certainly have been more successful if it had been flanked by a good communication strategy.⁶²

2.2.5 Quarantine and home isolation

The ordering of domestic isolation or quarantine is another building block Restriction of the infection process. The aim of these measures is to stop the spread of SARS Preventing CoV-2 by preventing contact with infected people. Home isolation is ordered by the health department for people who have been diagnosed with a SARS-CoV-2 infection by a positive PCR test. Quarantine measures, on the other hand, affect people who are only suspected of being infected. Such is the case with so-called close contacts who, for example, live together with an infected person in a household or have had close contact with an infected person (less than 1.5 meters away) for at least 10 minutes without continuously and correctly covering their mouth. Having worn a nose protector or an FFP2 mask.⁶³There are also quarantine orders for travelers returning from areas where there is a particularly high risk of infection or where new virus variants are widespread. Release from domestic isolation and quarantine is based on defined criteria intended to ensure that the persons concerned no longer pose a risk of infection.

In clinics, homes, assisted living communities or collective accommodation, special protective measures apply in the event of an outbreak of infection. Most regulations provide that infected people are to be isolated from other people living or working there. In some cases, however,

⁵⁹See Druschel et al. 2021

⁶⁰<https://www.bundesregierung.de/breg-de/themen/corona-warn-app/corona-warn-app-faq-1758392>

⁶¹See Simon/Rieder 2021.

⁶²See Lazarov 2021.

⁶³RKI: Contact person tracing (KP-N) for SARS-CoV-2 infections, 3.1.

https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Kontaktperson/Management.html#doc13516162bodyText11

collective quarantine measures are also carried out to limit the infection to the facility in the name of protecting the general public. However, this comes at a high cost

“Bought” the risk of infection for other people living or working in the facility. one

According to the study, collective quarantines were carried out in 71 percent of the facilities for refugees involved. On average, 19 percent of the residents affected became infected. In contrast, the average infection rate in facilities where only those who tested positive and whose close contacts were isolated individually or in small groups was only 5 percent. The authors therefore recommend that

Collective quarantine to be avoided without exception.⁶⁴In any case, the legal admissibility of

Collective quarantine controversial.⁶⁵The RKI also advises her, pointing out the special ones

burdens for the persons concerned.⁶⁶According to the current recommendations of the RKI

Prevention and management of COVID-19 diseases in reception facilities and communal accommodation for people seeking protection “[t]he necessary spatial separation of a) cases confirmed by laboratory diagnostics, b) contacts and suspected cases and c) non-cases [...] must be

well prepared in advance to avoid quarantine of the entire facility or larger groups.”⁶⁷The RKI

continues to recommend that persons at risk and their families be accommodated separately

throughout the pandemic and generally reduce the occupancy rate in communal accommodation.⁷¹

2.2.6 vaccinations

Vaccination is crucial to overcoming the pandemic situation (see info box 5). After the publication of the complete RNA genome sequence of SARS-CoV-2 in January 2020, work on vaccines began immediately - worldwide and with enormous momentum. The first clinical study for a vaccine started in mid-March 2020.⁷² At the beginning of April there were already 78 confirmed active vaccine candidates, five of which were in phase I clinical trials.⁷³ On August 11, 2020, the preparation Gam - COVID-Vac (“Sputnik V”) approved by the State Gamaleja Institute in Russia.⁷⁴ On December 21, 2020, the manufacturer BioNTech/Pfizer, the preparation BNT162b2 (“Comirnaty”), was the first vaccine in the EU to receive conditional approval (see below).

Even though the development of the vaccines against COVID-19 relied in part on new technologies, it was possible to build on numerous previous works. In addition, study protocols have been made more efficient, for example by running study sections in parallel. This, combined with huge financial investments from both public and private sources, significantly shortened the development timeframe for the vaccines against COVID-19.

Furthermore, the approval procedures, which can otherwise take years for vaccines, have been accelerated. This was made possible not only by increasing and concentrating staff capacities in the competent authorities - in the EU, for example, at the European Medicines Agency (EMA) and in Germany at the Paul Ehrlich Institute (PEI) - through the use of the so-called rolling review. In this

⁶⁴See Bozorgmehr et al. 2020

⁶⁵See Kiessling 2020.

⁶⁶https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Marginalisiert_Gruppen.html

⁶⁷RKI: Recommendations for health authorities on the prevention and management of COVID-19 diseases in Reception facilities and community accommodation for people seeking protection (within the meaning of §§ 44, 53 AsylG), "procedure".

case, the approval authorities do not wait with the assessment until all documents are finally available, but check individual data packages in advance, so that parts of the application dossier are already checked before the actual one application can be improved.⁷⁷ On this basis, everyone in Germany and the EU previously approved COVID-19 vaccines received “conditional market approval”. The

https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/AEGU/recording_facilities.html#doc14256998bodyText2

⁷¹ Ibid., "Persons at risk"

(https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/AEGU/Aufnahmeeinrichtungen.html#doc14256998bodyText5), "Contact reduction and protective behavior"

(https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/AEGU/aufnahmeeinrichtungen.html#doc14256998bodyText6).

⁷² <https://www.businesswire.com/news/home/20200316005666/en>

⁷³ See Le et al. 2020

⁷⁴ <https://covid19.rosminzdrav.ru/minzdrav-rossii-zaregistroval-pervuyu-v-mire-vakczinu-ot-covid-19>

⁷⁵ https://ec.europa.eu/commission/presscorner/detail/de/ip_20_2466

⁷⁶ <https://www.pei.de/DE/arzneimittel/impfstoffe/covid-19/covid-19-node.html>

⁷⁷ See PEI: FAQ development, approval, batch testing, <https://www.pei.de/DE/service/faq/coronavirus/faq-coronavirusnode.html>.

This means that their approval is linked to the condition that the companies applying in each case submit the data required for a final risk/benefit analysis within a defined period of time. Conditional approval may only be granted if the existing

Study results speak for the safety and effectiveness of a vaccine. It is valid for one year, but can be extended and converted into a normal approval with unlimited validity if the manufacturer submits the required study results.⁶⁸ The conditional approval of the four COVID-19 vaccines approved for the first time in the EU at the end of 2020 or the beginning of 2021 has already been extended by one year for the first time.⁶⁹

Vaccine development was not only rapid, but also exceptionally successful. According to the Data available at the time of their approval, the first mRNA vaccines reduced the number of COVID-⁷⁰Disease in a group of vaccinated individuals by more than 90 percent compared to an unvaccinated control group⁷¹ and thus significantly exceed the average effectiveness of influenza vaccines. For the delta variant of the virus, the RKI (as of February 7, 2022) still assumes that the mRNA vaccines "Comirnaty (BioNTech/Pfizer) and Spikevax (Moderna) and the vector vaccine Vaxzevria (AstraZeneca) when infected with Delta, have a very high efficacy of around 90% against severe COVID-19 disease (e.g. treatment in hospital) and a good efficacy of around 75% against symptomatic

⁶⁸ See PEI: FAQ development, approval, batch testing, <https://www.pei.de/DE/service/faq/coronavirus/faq-coronavirusnode.html> [02/14/2022]. Emergency approval, on the other hand, is not actually an approval, but only enables the temporary use of a non-approved vaccine in an emergency situation (cf. European Commission: Questions and Answers: Conditional market approval for COVID-19 vaccines in the EU, https://ec.europa.eu/commission/presscorner/detail/de/qanda_20_2390 [02/14/2022]).

⁶⁹ <https://www.ema.europa.eu/en/human-regulatory/overview/public-health-threats/coronavirus-disease-covid-19/treatments-vaccines/vaccines-covid-19/covid-19-vaccines-authorised> [02/14/2022].

⁷¹ See PEI: FAQ safety and effectiveness, <https://www.pei.de/DE/service/faq/coronavirus/faq-coronavirus-node.html>.

SARS-CoV-2 infection".⁷²As far as the omicron variant is concerned, it is only certain that the existing vaccines protect less well against infection with this virus variant, but this reduction in effectiveness cannot yet be precisely quantified. After all, the available vaccines still seem to protect well against courses of infection that require hospital admission, especially after receiving a booster shot.⁷³

The vaccination campaign began in Germany on December 27, 2020 with the condition of significant vaccine shortage. Therefore, the Federal Minister of Health Spahn already asked in autumn 2020 Standing Vaccination Commission (STIKO), the National Academy of Sciences Leopoldina and the German Ethics Council to jointly develop a normative framework for the fairest and most efficient possible distribution of this scarce commodity - i.e. a prioritization. At the beginning of November 2020, the committees presented the result of their cross-institutional and cross-disciplinary discussion process. The recommendations contained in the joint position paper are based on the following specific vaccination goals: "Prevention of severe COVID-19 courses (hospitalization) and deaths; Protection of persons with a particularly high work-related risk of exposure to SARSCoV-2 (occupational indication); Prevention of transmission as well as protection in Environments with a high proportion of vulnerable people and in those with a high potential for outbreaks;

maintenance of state functions and public life".⁷⁴Unlike in other countries such as Great Britain and the USA, the protection of highly vulnerable patient groups, especially the very old, was given priority over the rapid immunization of systemically important professional groups in the initial distribution phase. The BMG made a prioritization in continuously adapted vaccination regulations, which partially deviated from the position paper mentioned above. On June 7, 2021, the prioritization was formally lifted nationwide.⁷⁵

The procurement and distribution of the vaccines were initially slow, especially compared to countries such as Israel, the USA or Great Britain. Vaccination was initially carried out by mobile vaccination teams in long-term care facilities and in specially set up vaccination centers. In the second quarter of 2021, larger vaccine deliveries took place and the pace of vaccination increased significantly, also because general practitioners were involved in the strategy. By the end of June 2021, all adults with an increased risk of infection or a severe course of the disease could be offered a vaccination.

Due to the particularly high risk of infection in combination with the very high risk of a severe course of the disease, people who receive outpatient or inpatient care and nursing staff were classified in the highest priority group for vaccination. Although the vaccinations of those cared for and employed in nursing homes had already been largely achieved in March 2021, it was not possible to politically enforce their living and working situation. The hygiene, protection and test concepts applicable in long-term care facilities were then consistently followed for months, so that the social participation of those in need of care remained severely restricted.⁷⁶Also the recommendations of the Robert Koch

⁷²RKI: "How effective are the COVID-19 vaccines?"

(https://www.rki.de/SharedDocs/FAQ/COVID-Impfen/FAQ_Liste_Wirksamkeit.html)

⁷³RKI: "What is known so far about the effectiveness of the vaccine against the omicron variant?"

(https://www.rki.de/SharedDocs/FAQ/COVID-Impfen/FAQ_Liste_Wirksamkeit.html)

⁷⁴Standing Vaccination Commission/German Ethics Council/National Academy of Sciences Leopoldina 2020, 3.

⁷⁵<https://www.zusammengegencorona.de/impfen/basiswissen-zum-impfen/aufnahme-der-impfpriorisierung/>

⁷⁶See Kohl et al. 2021, 5th

Institute for old people's and nursing homes, which were last updated at the beginning of February 2022, as well as

Facilities for people with impairments and disabilities to manage COVID-19 still includes significant restrictions on participation opportunities.⁷⁷

Social and disability organizations criticized the implementation of vaccination prioritization for people with disabilities and chronic diseases.⁷⁸ When vaccinating people who live in assisted living or who are cared for by integration assistance services, there were sometimes significant delays compared to other groups of people with the same priority level. For people living independently with disabilities or chronic illnesses, who in many cases had gone into self-isolation due to their high risk of a severe course of the disease, the vaccination was sometimes difficult to access despite prioritization.⁷⁹

Homeless people were also given high priority due to the high risk of infection and serious illness. Corresponding vaccination campaigns, which were organized in cooperation with the homeless aid, often only started with a delay. Among other things, this was due to the temporary stop in vaccinations with the vaccine from AstraZeneca and the delayed delivery of the preparation from Johnson & Johnson,⁸⁰ but also of communication problems and mistrust on the part of the homeless people.⁹⁰ For example, homeless people in North Rhine-Westphalia were only offered targeted vaccinations in mid-April 2021, so that only around 10 percent had been vaccinated by the beginning of May.⁸¹ A similar picture emerges with regard to refugees in shared accommodation. According to press reports, in most of the federal states they were given less rapid access to vaccination than members of groups with the same high priority.⁹² Another factor that played a role was that there was also widespread skepticism about vaccination among refugees due to distrust and misinformation.⁸²

The RKI now assumes that even with a vaccination rate of 100 percent, it would not be possible to eliminate SARS-CoV-2.⁸³ But even if there is no threshold for "herd immunity" understood in this way, every increase in the vaccination rate is reflected in an improvement in community protection in the sense that it reduces the risk of infection from

People who cannot be vaccinated themselves for medical reasons. Still on

⁷⁷See Robert Koch Institute 2022.

⁷⁸See e.g. E.g.: <https://www.lv-koerperbehinderte-bw.de/n/c1-0.php?select=2021053101>

⁷⁹<https://www1.wdr.de/nachrichten/themen/coronavirus/weren-menschen-mit-behinderung-bei-der-impfungvergessen-100.html>

⁸⁰<https://sz.de/dpa.urn-newsml-dpa-com-20090101-210503-99-444093> (dpa-infocom, dpa:210503-99-444093/2)

⁹⁰Cf. Specht et al. 2020

⁸¹https://www.aachener-nachrichten.de/nrw-region/impfaktion-unter-wohnungslosen-fortsetz_aid-57804915
https://www.focus.de/politik/totz-prio-2-fluechtlinge-in-keinem-nationwide-vaccinated-the-raecht-sich-in-der-pandemie_id_13182250.html

⁸²<https://www.zdf.de/nachrichten/panorama/corona-impfung-gefluechtete-100.html>

⁸³See Wichmann et al. 2021, 4th

Based on the circumstances of the then dominant delta variant of the virus, the RKI recommended in July 2021 "a target vaccination rate (vaccination protection through complete vaccination) of 85% for 12-59 year olds and 90% for people over the age of 60".⁸⁴These targets have not been reached in Germany up to now, at the end of January 2022. As of the 8th February 2022, according to the RKI and BMG vaccination dashboard, at least 80.4 percent of 12- to 59-year-olds and 88.3 percent of people over 60 years of age have been fully vaccinated. At that time, only 54.5 percent of the 12 to 59 year olds and 75.4 percent of the people over 60 had received the booster vaccination that has since been recommended.⁸⁵⁸⁶Accordingly, well-known ones complain Experts in December 2021 that the fourth COVID-19 wave was triggered by a lack of vaccination protection.⁹⁷

After the initial shortage of vaccines and also the subsequent phase of difficult access to COVID-19 vaccination, which was characterized in particular by difficulties in making appointments (e.g. complicated online appointment making procedures, overloaded hotlines) have been overcome, the main obstacle on the way to higher vaccination is now likely to be Vaccination rates the missing be vaccinated. Results of the "European COvid Survey" (ECOS), a representative Survey in eight European countries, according to the general willingness to vaccinate in Germany at the beginning of September 2021 was 82 percent; while 5 percent were still unsure, 13 percent said they did not want to be vaccinated.⁸⁷The willingness to vaccinate has increased gradually in Germany and in the other seven countries since November 2020, but is somewhat behind in a country comparison with Spain and Portugal at the top (90 percent each).⁹⁹

In Germany, the so-called COSMO study, the "COVID-19 Snapshot Monitoring", investigates the reasons why people who have not yet been vaccinated have not yet been vaccinated by conducting surveys on attitudes towards the pandemic at two-week intervals. In mid-January 2022, a representative sample of adult 11 percent of those surveyed indicated that they were not yet vaccinated. Of these, only 14 percent said they would be vaccinated and 23 percent were hesitant, while 63 percent said they were definitely not vaccinated. Accordingly, a slightly declining proportion of 7 percent of all respondents would be classified as vaccination refusers (until November 2021 it was 9 to 10 percent).⁸⁸According to this survey, safety concerns are the main reason against vaccination for both those who refuse

⁸⁴Wichman et al. 2021, 11

⁸⁵<https://impfdashboard.de>, status: 08.02.2022, 09:31 a.m. The vaccination quotas of the RKI are to be understood as minimum information because they are subject to certain underreporting effects. At least in October 2021, however, the RKI expressly stated that the target vaccination rates listed in the text, even taking into account a correction factor for undercoverage have not yet been reached. See press release from the Robert Koch Institute dated ⁸⁶10.2021 "Explanations for recording COVID-19 vaccination rates"

(https://www.rki.de/DE/Content/Service/Presse/Press_Releases/2021/07_2021.html). 97 Cf.

Maier et al. 2021

⁸⁷<https://www.hche.uni-hamburg.de/corona/vergangene-befragungswellen/8-achte-befragungswelle.html>

⁹⁹ [eighth-wave.html](https://www.hche.uni-hamburg.de/corona/dashboard/ecos-dashboard.html); <https://www.hche.uni-hamburg.de/corona/dashboard/ecos-dashboard.html>

⁸⁸COSMO (2022): Summary and recommendations of wave 59, survey from 11/12/01/2022.

<https://projects.unierfurt.de/cosmo2020/web/summary/59/>

and those who are in principle not vaccinated. In addition, the vaccination is not considered necessary because the risk associated with COVID-19 is perceived as low.⁸⁹

Faced with the safety concerns identified by many unvaccinated as significant COVID-19 vaccines are likely to be due, among other things, to irritation caused by the rapid approval of the vaccines, the discussions about side effects and the repeated revisions of the age recommendations for certain vaccines, which are interpreted as uncertainty. Doubts about the independence of the STIKO, which was exposed to political pressure in particular when it came to recommending vaccinations for children, also played a role. The increasing reports of symptomatic cases of infection despite vaccination (so-called vaccination breakthroughs) continued to contribute to the uncertainty in parts of the population. Furthermore, it is criticized that target group-specific, culturally sensitive and multilingual information campaigns were missing.⁹⁰ These should have convincingly conveyed how safe the vaccines are and that in any case they are associated with significantly fewer health risks than COVID-19 disease and that although the vaccination protection against an infection is not complete and decreases over time, it is still much better to protect against its severe course of the disease is protected than if you remain unvaccinated. In addition, it should have been emphasized more strongly that the COVID-19 vaccination is not just a personal decision, because there is no alternative to a full one. Vaccination coverage of the population there if future pandemic waves with all Restrictions on freedom that they enforce should be prevented.

An evaluation of the COVID-19 hospital admissions, which was carried out between December 14, 2021 and January 12, 2022 by the DIVI intensive care register and the RKI, demonstrates the effective protection of the healthcare system from being overburdened by the vaccination. For the period in question, the analysis shows that almost two thirds (62 percent or 5,521 cases) of all new COVID-19 admissions to hospitals were unvaccinated people. Around 9.6 percent (856 cases) showed incomplete immune protection (those who had recovered without vaccination and only partially immunized vaccinated people). More than a quarter of the COVID-19 admissions to intensive care units (28.4 percent, 2,535 cases) had full vaccination protection (primary immunization or boosters). The proportion with a booster vaccination was only about 5.8 percent (520 cases). The figures refer to the new admissions for which the vaccination status was available. This was 90 percent of all cases (8,912 of 9,946 cases). In addition, the omicron variant became dominant during this period.⁹¹

As early as summer 2021, given the insufficient voluntary willingness to vaccinate after the To overcome the initial shortage of vaccines, a public debate about the means and to what extent pressure or coercion can be exerted on the unvaccinated. One topic was the introduction of 2G regulations in November 2021, with which unvaccinated people were excluded from many social, cultural and sporting activities because presenting a negative test for SARS-CoV-2 was no longer sufficient as an entry requirement. The (temporary) suspension of free citizen tests in October 2021

⁸⁹ibid.

⁹⁰<https://www.tagesspiegel.de/politik/rechte-gesundheitspolitik-deutschland-ist-einwandernsland-und- Braucht-einepassende-impfaktion/27147042.html> [02/17/2022].

⁹¹<https://www.divi.de/presse/pressemeldung/presseinformation-daten-aus-dem-intensivcare-register-unvaccinated-make-majority-of-all-covid-19-cases-on-intensive-care-wards-out>

was also widely understood as an attempt to use financial pressure to persuade unvaccinated people to get vaccinated.

The main focus was on the perspective of the unvaccinated, for example about the legitimacy of restrictions on their rights has been debated. To what extent the rights of this Time already unequal larger group of vaccinated people by a continuation of Pandemic in Germany would be restricted, was rarely the subject of public attention. In view of the situation, which deteriorated again with the fourth wave, the vaccinated part of the population lacked understanding and impatience with vaccination skeptics and vaccination refusers. More and more voices spoke under the impression of intensive care units, which were increasingly reaching their capacity limits⁹², for a general obligation to vaccinate.⁹³

On the part of politicians - prominent in the form of former Chancellor Angela Merkel, former Federal Minister of Health Jens Spahn and the Prime Ministers of the federal states - the introduction of a statutory vaccination requirement was ruled out at an early stage. In the position paper on vaccination prioritization written jointly with the STIKO and the Leopoldina in November 2020, the German Ethics Council also spoke out against a general obligation to vaccinate for ethical reasons. However, in the course of the first year of the vaccination campaign that followed, not as many people had voluntarily vaccinated against COVID-19 as had been hoped and needed for the sustainable containment of the pandemic. In autumn 2021, media reported on COVID19 outbreaks in nursing homes, in which a significant proportion of those employed there had not yet been vaccinated. As a result, on November 11, 2021, the Ethics Council adopted an ad hoc recommendation “On compulsory vaccination against Covid-19 for employees with special professional responsibility”, in which the quick and serious examination of a professional vaccination requirement in areas in which particularly vulnerable people are cared for, is required. In particular, the focus is on employees who professionally care for seriously or chronically ill and very old people, such as medical and nursing staff, but also employees in social services, everyday support or housekeeping. All of these professional groups have a special responsibility to ensure that those entrusted to them are not harmed. The recommendation “emphasizes that the – on a voluntary basis,

Just one month later, the German Ethics Council went one step further with its ad hoc recommendation “Ethical Orientation on the Question of a General Statutory Vaccination” by supporting – with four dissenting votes – for an extension of the vaccination obligation beyond the area-related one already decided by the German Bundestag Pledged to be vaccinated. The

⁹²In mid-December 2020, a nationwide average of up to 90 percent of the intensive care beds were occupied, of which around 25 percent were due to COVID-19 cases (<https://www.intensivregister.de/#/aktuelle-lage/zeitreihe>). Evaluations from the intensive care register also show that approx. 62 percent of all new COVID-19 admissions with known vaccination status were not vaccinated (<https://www.divi.de/presse/presseinformation-daten-aus-dem-intensivregisterungeimpfte-machen-majority-of-all-covid-19-cases-in-intensive-care-units>).

⁹³For example Olaf Scholz (<https://www.bild.de/politik/inland/politik-inland/scholz-bei-bild-live-zur-allgemeinen-impfpflicht-mankann-nicht-herzlos-zugucken-78402404.bild.html>), Christian Lindner and Robert Habeck (<https://www.zdf.de/nachrichten/politik/was-nun-habeck-lindner-koalitionsvertrag-100.html>).

majority is in favor of general compulsory vaccination for adults, a minority for compulsory vaccination for people who are at increased risk of a severe course of the disease. It is unanimously emphasized that a legal obligation to vaccinate always represents a significant impairment of legally and morally protected goods and can therefore only be justified if with their help serious negative consequences of possible future pandemic waves such as high mortality, long-term health impairments of significant parts of the population or the collapse of the health system can be prevented. Compulsory vaccination is neither a short-term breakwater nor a panacea against the pandemic. However, it can be considered as part of a "comprehensive, evidence-based, differentiated and forward-looking overall pandemic strategy".⁹⁴

Info box 5 "COVID-19 vaccines"

⁹⁴German Ethics Council 2021c, 5th

COVID-19 vaccines

Vaccines authorized in the European Union (EU).⁹⁵

- Comirnaty from BioNTech/Pfizer (mRNA vaccine), approved since December 21, 2020
- Spikevax from Moderna (mRNA vaccine), approved since January 6, 2021
- Vaxzevria from AstraZeneca (vector vaccine), approved since January 29, 2021
- COVID-19 Vaccine Janssen from Janssen-Cilag International (belonging to the Johnson & Johnson Group, vector vaccine), approved since March 11, 2021
- Nuvaxovid from Novavax (protein-based vaccine), approved since December 20, 2021

Flow of the centralized approval procedure in the EU⁹⁶

1. Preclinical studies in vitro and/or on animals (proof of concept)
2. Clinical studies on effectiveness (immune response) and safety (side effects) with increasing number of subjects
 - Phase I: 30 to 100 people; Focus: safety and tolerability
 - Phase II: 200 to 400 people; Focus: optimal dose
 - Phase III: 3,000 to approx. 20,000 people⁹⁷; Focus: effectiveness (possibly with placebo comparison)
3. Scientific evaluation by the European Medicines Agency and approval by the European Commission
4. Transfer of the EU approval to the national level
5. Application observations (phase IV) to determine rare side effects, among other things, continuously evaluated by the national regulatory authority (Paul Ehrlich Institute)

Task of the STIKO⁹⁸

After a vaccine has been approved, the Standing Vaccination Committee at the Robert Koch Institute (STIKO) Recommendations on how to do this in the light of the availability and effectiveness of other vaccines application, the greatest possible medical benefit can be drawn at the population level. It does not primarily assess the effectiveness and safety of the individual vaccine, but its possible contribution to a coherent vaccination strategy for Germany.

mechanisms of action of vaccines⁹⁹

Vector vaccines: In the development of this type of vaccine, so-called viral vectors are used to introduce genetic information from pathogens into cells. Non-pathogenic viruses (e.g. from the group of adenoviruses) are used as vectors, which in the case of COVID-19 vaccines contain the information for the production of SARS-CoV-2 spike proteins. These are proteins that are characteristic of the virus and enable it to dock to a host cell. Protective immunity is provided by neutralizing antibodies, which are antibodies that recognize these proteins and prevent the virus from binding to a host cell. Because the

Since spike proteins are only one component of the virus, they cannot cause an infection themselves, but they can stimulate the body to produce antibodies and cytotoxic T cells, which scavenge the virus when infected.

mRNA vaccines: These vaccines use single strands of messenger RNA (mRNA) that are packaged in a shell of lipid nanoparticles and thanks to this are taken up by body cells after vaccination

be able. After reading the mRNA – which immediately decomposes afterwards – the host cell begins to produce spike proteins, which the body responds to – as already explained in the case of vector vaccines – with the construction of an anti-SARS

⁹⁵https://www.pei.de/DE/newsroom/dossier/coronavirus/coronavirus-content.html?cms_pos=2

⁹⁶All COVID-19 vaccines have been approved at EU level. For the procedure in general, see Grabski/Hildt/Wagner 2020.

⁹⁷In the case of the BioNTech vaccine, over 40,000 subjects were involved in the placebo-controlled phase III study (cf. Polack 2020).

⁹⁸https://www.rki.de/DE/Content/Commissions/STIKO/stiko_node.html

⁹⁹See Meyer 2021.

CoV-2 protective immune response responds. mRNA vaccines induce sensitization of the immune system without the need to inject a vector virus. Neither the inoculated mRNA particles nor the genetic information of viral vectors are incorporated into the cell's own DNA.

Protein-based vaccines: These vaccines contain killed pathogens or only parts of the pathogens and thus trigger an immune response that protects against infection with the pathogen capable of replication. The principle of protein-based vaccines is already being used very successfully, for example for immunization against hepatitis B or polio. A first protein-based vaccine against COVID-19 has now been approved in the EU.

2.3 consequences for the population

Some of the measures to combat the pandemic include significant restrictions on freedom. Not only the health risks associated with the pandemic, but also the risks and burdens associated with the protective measures affect different groups of people in different ways and to different extents. Whether people with a rather low health risk accept comparatively high restrictions on their freedom, which affects many younger people, or whether people accept high risks of infection due to their job in order to carry out socially indispensable activities, for example in the field of care or social work, depends on their willingness to show solidarity away. The social consequences of this solidarity hit people in precarious circumstances (e.g. low income, insecure employment) particularly hard. Against this background, too, the great willingness to show solidarity that people from these groups have shown during the pandemic is remarkable. According to the Mannheim Corona Study, public approval of the infection control measures was still over 90 percent in March 2020, but then dropped significantly during the course of the pandemic. According to Infratest dimap at the beginning of February 2022, 44 percent of the population still considers the measures taken to contain the pandemic to be appropriate.¹⁰⁰

2.3.1 health consequences

A distinction must be made between direct health consequences of a SARS-CoV-2 infection and indirect health consequences that can be attributed to infection control-related restrictions in health care. Both deserve equal attention.

a) Health consequences of a SARS-CoV-2 infection

The personal risk of becoming infected with SARS-CoV-2 depends primarily on the number of contact persons and the frequency and intensity of these direct contacts, but also on how many contacts these other persons have with third parties. For example, a person who lives alone or only with a partner, works in the home office, only maintains regular contact with a small number of people who also have little contact with other people, and moves little and cautiously in public, has a low Risk of infection and is therefore only exposed to a low health risk. In such a situation, even people who have an increased risk of a severe course of the disease in the event of an infection are well protected. A person on the other hand who lives in a large family with children who go to school (if it is open) and family members who have many professional contacts has a rather high risk of infection. If this increases the risk of severe course of the disease, there is a comparatively large one for this person

¹⁰⁰<https://www.tagesschau.de/inland/deutschlandtrend/deutschlandtrend-2883.html>

health hazard. Since living and working conditions depend heavily on socioeconomic status, this also plays an important role in the distribution of health risks in the population. This must always be taken into account in the following explanations.

In most cases, a SARS-CoV-2 infection - especially in younger people without previous illnesses - is mild or even symptom-free and, according to the current state of knowledge, does not result in any long-term health restrictions. Nevertheless, in 2020 alone, a total of 176,100 people with or because of a corona infection had to be hospitalized in hospital.¹⁰¹The risk of a severe course of the disease increases in people from about 50 to 60

Years of life increasing with increasing age. In addition, certain

Previous illnesses (e.g. cardiovascular, respiratory and cancer diseases, diabetes or damage to the liver and kidneys), but also factors such as obesity and smoking increase the risk of a serious illness.

This risk is also greater in older people with

Previous illnesses higher than if people only have one factor (age or previous illness).

Furthermore, older people with only one previous illness have a lower risk of serious illnesses than those with several illnesses (multimorbidity).¹¹⁴ According to an overview by the RKI, the

approximately 11.5 million cases of infection reported in Germany by February 9, 2022 account for almost 120,000 deaths.¹⁰²Of all the people who had died from or with the infection according to laboratory-confirmed evidence, 63.6 percent were older than 80 years, 30.7 percent were 60- to 79-year-olds and 5.3 percent were 35-year-olds. up to 59 years of age.

Not even half a percent of the COVID-19 deaths affected people who were younger than 35 at the time of infection.¹⁰³A gender comparison shows that men worldwide are more likely to become seriously ill with COVID-19 and also die from it more often than women.¹⁰⁴

Depending on the patient group considered, very different statements are made on the frequency of the occurrence of longer-term health problems after an acute SARS-CoV-2 infection. For the post-COVID syndrome, which is referred to when symptoms persist for more than 12 weeks after an acute infection, a frequency of up to 15 percent is assumed across all patient groups.¹⁰⁵¹⁰⁶Long COVID means

on the other hand, the appearance of characteristic symptoms in the interval between four and twelve weeks after infection. The most common symptoms include tiredness, exhaustion, shortness of breath, concentration and memory problems, sleep disorders, depressive symptoms and anxiety.¹⁰⁷Many important questions about long or post COVID, such as the influence of the severity of the course of the COVID-19 disease on the probability of the occurrence of long-term symptoms

¹⁰¹Federal Statistical Office: Press Release No. 445 of September 22, 2021.

https://www.destatis.de/DE/Presse/Press_Releases/2021/09/PD21_445_231.html. 114

https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Risikogruppen.html

¹⁰²https://www.rki.de/DE/Content/InfAZ/N/Neuartiges_Coronavirus/Fallzahlen.html

¹⁰³RKI: COVID-19 dashboard, <https://experience.arcgis.com/experience/478220a4c454480e823b17327b2bf1d4> [2022-02-09].

¹⁰⁴See Peckham et al. 2020

¹⁰⁵Koczulla, AR et al. (2021): S1 guideline Post-COVID/Long-COVID, 5. [https://www.awmf.org/uploads/tx_szleitlinien/020-](https://www.awmf.org/uploads/tx_szleitlinien/020-1061_S1_Post_COVID_Long_COVID_2021-07.pdf)

¹⁰⁶[1061_S1_Post_COVID_Long_COVID_2021-07.pdf](https://www.awmf.org/uploads/tx_szleitlinien/020-1061_S1_Post_COVID_Long_COVID_2021-07.pdf)

¹⁰⁷RKI: FAQ Long-term health consequences: What symptoms do people with long-term health consequences of COVID-19? (Status: 01/26/2022)

(https://www.rki.de/SharedDocs/FAQ/NCOV2019/FAQ_Liste_Gesundheitliche_Langzeitseiten.html)

and other possible risk factors, cannot yet be answered reliably and comprehensively with the current state of research.¹⁰⁸

The health risks of a SARS-CoV-2 infection are particularly high for people in inpatient care. According to an international study, depending on the country, they accounted for 42 to 57 percent of all those who died from or with COVID-19.¹⁰⁹In the first wave of the pandemic, one in five COVID-19 hospitalizations and almost one in three COVID-19 deaths in hospitals in people over 60 years of age were in the hands of a person in need of long-term care. This is proven by the billing data from the AOK for people who are cared for as a full in-patient.¹¹⁰The data also shows a higher mortality than the average of previous years - for the 15th calendar week 2020 by 20 percent.¹¹¹One of the reasons that long-term care facilities play a critical role in the spread of infection is that they are part of a wide social network in which chains of infection can propagate. This network is so large because in such facilities usually larger groups of residents live together who are cared for by mostly larger teams of nursing staff whose family contacts also expand the network. This provides ideal conditions for rapid spread of infection. In addition, people who require long-term care often have additional risk factors for serious illnesses, such as certain previous illnesses.¹¹²Also the in Employees in long-term care facilities cannot always adequately protect themselves against infections and are also exposed to comparatively high health risks, depending on their age and previous health conditions.¹¹³

Social epidemiological research has long provided evidence of the diverse relationships between socioeconomic characteristics on the one hand and health opportunities, disease and mortality risks on the other.¹¹⁴This also applies to severe COVID-19 disease progressions.¹¹⁵The analysis of health insurance data from the AOK Rhineland/Hamburg (January 1, 2020 to June 18, 2020) shows that recipients of unemployment benefit II have a 1.94 higher risk of hospitalization after a COVID-19 diagnosis than regular employees of unemployment benefit I by a factor of 1.29 and for low-wage work with social benefits by a factor of 1.33.¹¹⁶

For Germany, the first data on the health risks caused by the pandemic are available Migrant workers (including many care workers) and refugees. The life situations of these two groups are very different, one What they have in common, however, is the special hurdles to complying with distance rules. One Evaluation of the data up to March 2021 showed that cramped accommodation and precarious Working conditions entail a very high risk of infection, which can increase in the event of a collective quarantine order. As a result, despite (age-related) lower pre-existing health conditions, there is an

¹⁰⁸The RKI maintains continuously updated information pages on these and other frequently asked questions about long-term health consequences (https://www.rki.de/SharedDocs/FAQ/NCOV2019/FAQ_Liste_Gesundheitliche_Langzeitseiten.html).

¹⁰⁹Comas-Herrera et al. 2020

¹¹⁰See Kohl et al. 2021, 12

¹¹¹See Kohl et al. 2021, 9th

¹¹²Li et al. 2020

¹¹³Wolf-Ostermann/Rothgang 2020, 55 f.

¹¹⁴See Lampert et al. 2021

¹¹⁵See Hoebel et al. 2021

¹¹⁶See Wahrendorf et al. 2021

increased mortality rate among migrant workers. In addition to housing and living conditions, deficiencies in medical care and access to early care may also play a role.¹¹⁷

b) Damage to health as a consequence of the protective measures

During the course of the pandemic, prevention, therapy and rehabilitation services were repeatedly reduced to reduce the risk of infection within medical facilities and to free up capacity for the treatment of people suffering from COVID-19. Due to the lack of preventive medical check-ups, some cancers are only discovered at a late point in time, which makes the therapy more complex and increases the chances of a cure

deteriorated.¹¹⁸ Due to the feared overload of intensive care capacities, elective operations were carried out with a delay,¹¹⁹ what various complications caused by the aggravation or chronification of health problems

(e.g. rupture of an aortic aneurysm that was not operated on in a timely manner). Overall it came in 2020 in Germany to "[almost] 2.5 million fewer hospital treatments and a good 690,000 fewer operations than in the previous year".¹²⁰

Apparently, delays are actually more necessary in the run-up to clinical care

Hospital referrals by resident doctors. The main concern here could have been that the hospitals would be overburdened by the fact that admissions that were not absolutely necessary. Doctors may also want to protect the people they care for from the increased risk of infection in the clinical setting. In addition, there is an unknown number of people who actually need treatment who have voluntarily decided not to use basic medical care or clinics. Be it out of fear of becoming infected with COVID-19 or out of anticipatory consideration for pandemic-related bottlenecks in the healthcare system. The full extent of somatic health impairments resulting from health care restrictions during the

could be due to the Corona crisis will only become apparent in the coming years.

Mental health impairments will be examined in the following section.

The Nursing Report 2021 of the Scientific Institute of the AOK provides evidence that the quality of medical care in nursing homes could have deteriorated significantly during the pandemic, even independently of SARS-CoV-2 infections. Hospital admissions of people living in care facilities fell massively in the first year of the pandemic. This can only be partly attributed to the suspension of planned and elective treatments, because there were also fewer admissions for conditions requiring acute treatment such as femur fractures (down by 8 percent), heart failure (down by 31 percent) or cerebral infarction (decrease of 20 percent) were recorded.¹²¹ Furthermore, the mortality rate in nursing homes during the first two waves of the pandemic increased significantly compared to the average of previous years. In the first wave, this excess mortality was 20 percent and in the second

¹¹⁷See Hintermeier et al. 2021

¹¹⁸See Tsubulak et al. 2020; Bolenz et al. 2021

¹¹⁹See Stoess et al. 2020

¹²⁰Federal Statistical Office: Press Release No. 445 of September 22, 2021. https://www.destatis.de/DE/Presse/PressReleases/2021/09/PD21_445_231.html.

¹²¹See Kohl et al. 2021, 15 f.

wave of the pandemic an average of 30 percent.¹²² Additional insight into the quality of care in home and residential care settings during the first

Pandemic wave provide the results of another study published in the Care Report 2021, in which the caregivers or caregivers of people in need of care were retrospectively interviewed online about their living and care situation. In all nursing settings, there have been significant restrictions on the social participation of those in need of care. The negative changes perceived in those in need of care cover a wide range of physical and mental abilities as well as the psychological state.¹²³

There were also significant health restrictions for people with disabilities

Care for preventive measures, necessary treatments and surgical interventions. In particular, the remedies that are very important for people with severe physical and mental disabilities, such as physiotherapy, ergotherapy or logotherapy, were not available without replacement for a long period of time, which has a long-term negative effect on the health of the people affected.¹²⁴

2.3.2 Psychological demands and stress

The COVID-19 pandemic and the measures taken to contain it have led to psychological demands and stress, some of which are considerable. These are the result of a complex interaction of personal, life situation and environmental characteristics as well as related development potentials and vulnerabilities.

Empirical surveys indicate that mental stress in the adult German population not only increased in the first wave of the pandemic during the so-called lockdown, but that insecurities and fears often persisted.¹²⁵ Regardless of getting used to a "new normal", the burden remained high.¹²⁶ Other study results suggest that the COVID-19 pandemic is associated with greater additional psychological stress for women than for men.¹²⁷ Furthermore, younger people are more affected by psychosocial stress than older people, for example due to additional tasks in connection with childcare or supporting older family members, due to financial losses or economic insecurity.¹²⁸

¹²²Scientific Institute of the AOK (2021): Nursing Report 2021: Significant increase in mortality in nursing homes during the first and second wave of the pandemic. Press release of June 29, 2021

(https://www.aokbv.de/imperia/md/aokbv/presse/pressemitteilungen/archiv/wido_pm_pflege_report_290621.pdf).

¹²³See Räker/Klauber/Schwinger 2021.

¹²⁴See German Association for Rehabilitation 2021a, 17 ff., 19 ff.

¹²⁵See Bäuerle et al. 2020; Skoda et al. 2021

¹²⁶In one from 10.03. In an online survey conducted up to 27.07.2020 - random sample of 22,961 people, 16,918 of whom were at least 18 years old and resident in Germany and with a complete data set - generalized anxiety, depression and psychological distress were recorded and compared with available reference values from the time before the compared to the pandemic. Furthermore, data on COVID-19-related experiences and behavior (COVID-19-related fear, trust in government measures, subjective level of information, adherent safety behavior and personal risk assessment for infection/disease severity) are available. The survey period was retrospectively divided into five phases (initial phase, crisis phase, lockdown phase, reorientation phase and "new normality"), which serve as the basis for the reconstructed development (cf. Skoda et al. 2021).

¹²⁷Bauerle et al. (2020) report more generalized anxiety for women than men, more symptoms of majorer Depression and psychological stress as well as greater COVID-19-related anxiety.

¹²⁸See Robillard et al. 2020

Overall, representative findings suggest that the impact of the pandemic on the psychosocial health of older people is minor. Most of them can be assessed as sufficiently resilient and mentally stable and are coping well with the pandemic.¹²⁹The older people themselves see essential resources for this in their life experience, the successful confrontation with earlier crises, an optimistic attitude and the fact that the measures taken can be understood as necessary and appropriate.¹³⁰However, increased stress in particularly vulnerable groups such as lonely older people with a lack of social support should not be overlooked

Support or residents of facilities for long-term care and assistance for the disabled.¹³¹Withdrawal and isolation are demands that are being directed at the elderly and disabled in the COVID-19 pandemic, or – as has been the case for inpatients – that are being prescribed. Under these “protective conditions”, the probability of psychological

Disorders increase, so protection against COVID-19 may come at the cost of loss of mental health.¹³²Especially with regard to those in long-term care and facilities for the disabled Living - and here in particular people who are affected by cognitive impairments - it is to be feared that contact restrictions to contain the pandemic have led to a (further) deterioration in cognition and emotional well-being even after the measures have been discontinued.¹³³

Psychological stress in younger people has been documented by numerous studies, for example by the nationwide surveys "Youth and Corona" (JuCo) by the research association "Childhood - Youth - Family in the Corona Period". According to their results, almost two thirds (64.1 percent) of 15 to 30 year olds feel “partly” to “clearly” psychologically stressed. 60.7 percent agree, at least in part, that they feel lonely, and 68.7 percent describe fear of the future as a stressful issue. Further analyzes show that girls, young women and non-binary people feel psychologically stressed significantly more often than boys and young men - for the latter, the proportion of those who indicate mental stress caused by Corona is 31.9 percent for girls and young women however, at 45,¹³⁴

Studies on the impact of the pandemic on children's mental health and Adolescents found that symptoms of anxiety and depression have increased significantly.¹³⁵ In particular, the loss of daily structure and social contacts and the need to organize home office and home schooling at the same time is challenging for all family members and is experienced as stressful, especially in families with younger children and under conditions of limited space. Findings from various European countries indicate that, from the point of view of a large proportion of parents, homeschooling is associated with potentially lasting disadvantages and inequalities for

¹²⁹See e.g. B. Lopez et al. 2020. The various survey waves of the COSMO study (COVID-19 Snapshot Monitoring) show that 65 to 74 year olds have a higher general life satisfaction and a lower perception of stress compared to younger age groups (cf. Betsch et al. 2022). A study in China came to similar conclusions, in which an increase in anxiety, depression and alcohol abuse as well as a decrease in psychological well-being in the course of the pandemic was observed in all age groups (cf. Ahmed et al. 2020). Here the results show a significantly increased vulnerability of 21 to 40 year olds compared to older people.

¹³⁰See Kruse 2021a; Wezel et al. 2021

¹³¹See Kruse 2021b; Van der Roest et al. 2020

¹³²Closely based on Kruse 2021b, 146. Cf. also Deutscher Ethikrat 2020a.

¹³³Gosch et al. (2021) refer to the S1 guideline “Level 2 Geriatric Assessment”, which compiles suitable methods for assessing the social situation, everyday activities, cognition, depression, mobility and muscle strength, pain and nutrition.

¹³⁴See Andresen et al. 2021, 33

¹³⁵See Schlack et al. 2020

themselves and their children.¹³⁶In the COPSY longitudinal study, 1,586 parents with 7 to 17 year old children and adolescents and 1,040 11 to 17 year olds themselves were interviewed. 71 percent of the children and young people and 75 percent of the parents stated that they were mentally stressed, with socially disadvantaged children and young people experiencing the stress particularly severely. The proportion of children and young people with mental health problems has roughly doubled compared to the time before the pandemic.¹³⁷

There are now extensive studies on mental disorders in students.¹³⁸the

The results can be summarized pointedly as follows: the COVID-19 pandemic is accompanied by a “pandemic” of depressive disorders and anxiety disorders among students.

A mixed-methods study carried out at the University of Heidelberg is meaningful for the situation in Germany.¹³⁹Afterwards, 72.2 percent of the students felt their well-being was severely impaired. 75.8 percent met the criteria for diagnosing at least one syndrome, 41.6 percent had a depressive disorder, 25.4 percent had a somatoform disorder, and 20.0 percent had an anxiety disorder. Most students were of the opinion that their particular impact during the pandemic was not seen or taken into account either by the public or by politicians.¹⁴⁰

Additional psychological consequences of the pandemic arise for people who have been quarantined - regardless of age.¹⁴¹In addition to psychological reactions such as fear, anger, anxiety, insomnia, confusion, depression and lack of feeling, behavioral changes such as compulsive hand washing, avoidance of crowds and a delayed return to “normal” were observed in the available studies, some even after several months. This suggests that mental health is impaired not only in the short term but also in the longer term.¹⁴²According to the RKI, the already great need for psychosocial care due to the precarious situation of the residents of reception facilities and communal accommodation for

¹³⁶See Thorell et al. 2021

¹³⁷See Ravens-Sieberer et al. 2021

¹³⁸In a large Chinese study, around 45 percent of the approximately 750,000 participating students were affected by severe psychological problems, 34.9 percent suffered from acute stress reactions, 21.1 percent from depressive disorders, 11.0 percent from anxiety disorders (cf. Ma et al. 2020). A survey of over 45,000 US students suggests that the prevalence of depressive disorders among graduate students has doubled as a result of the pandemic and that the prevalence of anxiety disorders has increased by half (see Chirikov et al. 2020).

¹³⁹In addition to data on internationally comparable screening instruments, this online survey also contains narrative data Presentations by the students on their own well-being and how to better deal with the pandemic. 2,135 of 27,162 students at Heidelberg University took part.

¹⁴⁰See Holm-Hadulla et al. 2021

¹⁴¹See Demaria/Vicari 2021; Chaves de Lima et al. 2020

¹⁴²See Serafini et al. 2020. Orgilés et al. (2020) were the first to explore the emotional impact of quarantine on examined children and adolescents. In this online survey, 1,143 parents of Spanish and Italian children aged 3 to 18 were asked about the impact of COVID-19 on their children and themselves. As a result, 85.7 percent of parents observed changes in their children's mood and/or behavior; Difficulty concentrating (76.6 percent), boredom (52.1 percent), irritability (39.0 percent), Restlessness (38.8 percent), nervousness (38.0 percent), feelings of loneliness (31.3 percent), discomfort (30.4 percent) and worry (30.1 percent), with more for children and young people from Spain symptoms have been reported.

those seeking protection increases due to the pandemic-related “worries about their own health, quarantine measures and social isolation”.¹⁴³¹⁴⁴

2.4 Crisis test for institutions

The pandemic and its consequences and side effects are also affecting our society
Institutions - especially in the social, health and educational sectors - face enormous challenges
Challenges. The problematic situation in long-term care facilities and
Disabled assistance has already been presented in Sections 2.3.1 and 2.3.2. But also social
Services for other particularly vulnerable groups such as child and youth welfare services¹⁴⁵, the

¹⁴³Robert Koch Institute: Recommendations for health authorities on the prevention and management of COVID-19 diseases in reception facilities and communal accommodation for those seeking protection (within the meaning of §§ 44, 53 AsylG) [Status:

¹⁴⁴01/01/2022], https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/AE-GU/aufnahmeeinrichtungen.html [02/16/2022].

¹⁴⁵During the closure of day care centers and schools, children and young people were particularly at risk from domestic violence. At the same time, there was a decrease in cases in the child protection outpatient clinics (cf. Heimann et al. 2021).

Social psychiatry and help for the homeless¹⁵⁷ could only work to a limited extent due to infection control measures. As a result, these services could not even provide their clientele with the usual support, although many of them were people who would have even had a special need due to the pandemic. All of these institutions are particularly susceptible to outbreaks of infection and are therefore particularly affected by protective measures with their consequences and side effects. That is why they were able to carry out their indispensable social task during the Corona Only able to meet the crisis to a limited extent, which is why the people they care for, who are particularly vulnerable anyway people have incurred further significant disadvantages.

The resilience of institutions to crises in a pandemic is demonstrated by how well they succeed in reconciling protection against infection with the fulfillment of their respective social mission through appropriate adjustments. In addition, it is relevant to what extent a tightening of social disadvantages can be avoided. In the following, these aspects shall serve as examples for the health system and the education system are explained in more detail.

2.4.1 healthcare system

The Corona crisis has shown that even the German healthcare system, which is one of the most efficient and costly in the world overall, was not adequately prepared for the challenges and peak loads that arise during a pandemic. This includes weaknesses in terms of health protection at population level, such as insufficient consideration of reserve capacities in requirement planning in order to be able to react adequately even in an emergency.¹⁵⁸

A special feature of the complex German healthcare system is that the public Health service (ÖGD) is not an integral part of health care, but represents a parallel structure with the character of an authority. In addition, the health authorities have been exposed to significant staff reductions in recent decades.¹⁵⁹ During the COVID-19 pandemic, the health authorities, which form the municipal pillar of the ÖGD, repeatedly lacked sufficient qualified personnel to perform essential tasks of Protection against infection such as contact person tracking and quarantine care appropriate

¹⁵⁷Places have been reduced in the emergency shelters, warm showers, food distribution and counseling services were and are only available to a very limited extent. Sources of income such as selling newspapers or collecting bottles were largely eliminated. Many offers of homeless assistance are dependent on the cooperation of volunteers who were unable or only very limited to contribute during the shutdown. The RKI recommends a number of Measures, on the one hand, to help those who work in facilities for the homeless and those who seek help there Protecting people from infections and diseases and, on the other hand, from such facilities Avoiding outbreaks or at least being able to recognize them early and contain them. For example, low-threshold access to current information on the infection process, but also on SARS-CoV-2 tests and COVID-19 vaccinations should be granted (cf. Robert Koch Institute: Coronavirus disease 2019 (COVID-19) in the context of homelessness - Recommendations for

See.

health authorities and providers of homeless and homeless assistance [status: 01/25/2022], https://www.rki.de/DE/Content/InfAZ/N/Neuartigs_Coronavirus/wohnungsls.html [02/16/2022]). 158 Cf. German Academy of Sciences Leopoldina 2020; Kirubarajan et al. 2020. 159 Brushwood/Kuhn 2020.

to be able to do (cf. section 2.2.4). Conversely, the concentration on the Corona crisis led to other tasks of the ÖGD being neglected.

At the peak of the COVID-19 pandemic, intensive care medicine in Germany was at its performance limit, although Germany occupies a leading position in European and even more so in a global comparison in terms of intensive care bed capacity. According to information from the German Hospital Society, the maximum number of 5,800 infected with COVID-19 sick people in intensive care reached. Despite the very high 7-day incidence at the beginning of February 2022 as a result of the spread of the omicron variant, the number of people with COVID-19 requiring intensive care treatment remains far below this maximum value. To this end, more and more patients with (i.e. not necessarily because of) a SARS-CoV-2 infection are being treated on the normal wards of hospitals and have to be isolated there.¹⁴⁶

The threat of excessive demands on the intensive care units during the Corona crisis led to a debate as to whether triage should be carried out and, if so, according to which criteria. The German Ethics Council was already involved with its first publication on the pandemic, the ad hoc recommendation "Solidarity and responsibility in the corona crisis". It emphasizes that in situations where the urgent need for life-sustaining medical resources cannot be met for all, tragic life-or-death decisions must be made for which "there is no fully satisfactory legal and ethical solution." "The question of who receives a scarce resource and for what reasons and who is denied it affects the fundamental rights of those affected and raises fundamental problems of distributive justice."¹⁴⁷

In the meantime, the Federal Constitutional Court has decided (decision of December 16, 2021) that the legislator must create regulations to prevent persons with disabilities from being disadvantaged when it comes to triage decisions.¹⁴⁸ This makes it clear once again how important it is not to allow such situations of shortage to arise in the first place. Thanks to the good provision of intensive care capacities, the infection protection policy and the precautions taken in health care, this was largely successful in Germany during the COVID-19 pandemic.

The conversion of the system to the care of COVID-19 patients worked well in an international comparison. The extreme emergency of a collapse in health care was averted in Germany. However, there have been significant cutbacks in the care of patients with other diseases - particularly severe in the first "wave" of the pandemic.

At the beginning of the pandemic, there was no overall recording of intensive care beds and their occupancy. The RKI therefore very quickly set up the DIVI intensive care register with the technical support of the German Interdisciplinary Association for Intensive Care and Emergency Medicine. Since April 2020, the DIVI intensive care register has been publishing intensive care treatment capacities on a daily basis

¹⁴⁶<https://www.dkgev.de/dkg/coronavirus-fakten-und-infos> (Status: February 2022) [02/16/2022].

¹⁴⁷German Ethics Council 2020a, 3rd

¹⁴⁸BVerfG, decision of December 16, 2021, Az. 1 BvR 1541/20 (http://www.bverfg.de/e/rs20211216_1bvr154120.html).

of around 1,300 acute hospitals in Germany and their current occupancy rate due to COVID-19 patients.¹⁴⁹These data provide an important basis for the care planning and related political decisions.

As shown under 2.3.1, the interaction of a number of effects led to treatment capacities being saved or freed up for people suffering from COVID-19. From the regulatory side, this was promoted by the fact that hospitals received financial compensation for postponed operations and treatments that could be planned. From mid

As of March 2020, hospitals initially received a flat rate of 560 for each free bed euros per day and a bonus of 50,000 euros for each additional intensive care bed created.¹⁵⁰

The financing of the corona protection measures generally represents a challenge for the German healthcare system, which is based on a primarily profit-oriented logic of individual case accounting. Population-related measures such as preventive keeping free of

Treatment capacities, the testing of patients without symptoms or the vaccination campaign cannot be recorded with this financing model. In accordance with the Hospital Relief Act, these measures are therefore financed via the health fund, the liquidity reserve of the GKV. In 2020, a total of around 2.2 billion euros were raised from this fund for the fight against the pandemic.¹⁵¹This approach has been criticized for jeopardizing the long-term stability of statutory health insurance funding, which will in any case be under great strain in the years to come as a result of the consequences of the COVID-19 pandemic.¹⁵²

A significant problem during the pandemic was the staffing situation in the healthcare system, especially in the area of nursing. If more and more employees give up their jobs in both nursing and geriatric care, this is due on the one hand to structural circumstances and conditions (e.g. the enormous increase in workload since the introduction of the DRG system in inpatient hospital accounting)¹⁵³as well as institutional, organizational and organizational-ethical frameworks (e.g. lack of offers for physical, psychological and moral relief) and on the other hand at the limits of personal resources in dealing with stressors and burdens in crisis situations.¹⁵⁴Relevant studies are available on the structural, mental and physical stresses and multiple stressors in the context of the COVID-19 pandemic.¹⁵⁵From the special psychological problems that challenged the healthcare system during the Corona crisis, only “dying alone” will be singled out here, because it is one of the most drastic experiences of the pandemic not only for everyone involved and affected, but also for society as a whole . The fact that end-of-life care was not possible at all or only to a very limited extent,

¹⁴⁹<https://www.intensivregister.de>

¹⁵⁰<https://www.bundesregierung.de/breg-de/themen/coronavirus/covid19-krankenhaus-gesetz-1733614>

¹⁵¹BT Drs. 19/29946, p. 4 (<https://dserver.bundestag.de/btd/19/299/1929946.pdf>)

¹⁵²See Ulrich 2020.

¹⁵³Within ten years, from 2007 to 2017, the number of cases in German hospitals increased by 13.2 percent and the average length of stay in hospital decreased by 12.0 percent. In the same period, the number of employed doctors increased by 36.5 percent, but the number of nurses only increased by 11.4 percent (cf. Böhm 2021, 332).

¹⁵⁴See German Professional Association for Nursing Professions 2021; Hossain/Clatty 2021.

¹⁵⁵e.g. B. Brakemeier et al. 2020; Kramer et al. 2021; Rohwer et al. 2021; Cotel et al. 2021
See.

especially during the first wave, was not only a burden for the dying themselves and was traumatizing for many relatives. For the employees in clinics and nursing homes, too, it was almost unbearable to have to enforce contact regulations and witness the suffering of those affected.¹⁵⁶The term “Pflexit” is now used, particularly with regard to the personnel consequences of nurses in intensive care units, because so many nurses question whether they will continue to work or leave the profession.¹⁵⁷As a result, the pandemic has both revealed the existing shortage of staff and exacerbated it through further career exits.¹⁵⁸

One that cannot yet be estimated in terms of its exact extent, but based on all that has been available so far

Indicators of a significant, long-term challenge for the healthcare system are the chronic course of COVID-19 (long and post-COVID syndrome).¹⁵⁹These affect not only the need for care in curative medicine, for example in pulmonary medicine, but also in the foreseeable future in rehabilitative medicine.¹⁶⁰

As a side effect of contact restrictions and hygiene measures, many people have come into contact with fewer pathogens than usual, which led to an increase in infections after measures were relaxed. Due to the closure of day care centers and schools from spring 2021, there was an unusually high number of infections, especially among children and adolescents, which can be traced back to viruses other than SARS-CoV-2. For example, in autumn 2021, the RKI recorded a massive increase in respiratory infections caused by the RS virus (respiratory syncytial virus), which poses massive health risks, especially for small children.¹⁶¹As a result, sick children were increasingly transferred to less overburdened hospitals and it was feared that the clinics for paediatrics and youth medicine would collapse.¹⁶²

Overall, it has been shown that the German healthcare system does not respond sufficiently to the COVID-19 pandemic was prepared and the intensive care units in particular were at times reaching their limits, but the necessary adjustments were so successful that the medical care of those suffering from COVID-19 could be adequately secured at any time during the pandemic. However, there were deficiencies in health care for many other groups of people, which extend beyond the pandemic and unfortunately - as the example of the Children and young people shows - especially people who can affect in the course of the Pandemic had to make great sacrifices.

¹⁵⁶See e.g. B. Karle 2020; Strang et al. 2020

¹⁵⁷See Fuchs/Taufer 2021.

¹⁵⁸<https://www.dgiiin.de/allgemeines/pressemitteilungen/pm-leser/online-umfrage-shows-employees-on-den-intensive-care-stations-not-admissions-and-im-rescue-service-are-erschoept.html>

¹⁵⁹See: S1 guideline Post-COVID/Long-COVID (as of July 12, 2021), https://www.awmf.org/uploads/tx_szleitlinien/020027l_S1_Post_COVID_Long_COVID_2021-07.pdf [09/02/2021].

¹⁶⁰<https://www.zi.de/presse/presseinformationen/8-february-2022>

¹⁶¹See Wieler/Häcker 2021, 4 f.

¹⁶²<https://www.vlkkd.de/de/aktuelles/sendungen/VLKKD-Press-Release-03.11.21.pdf>

Special solutions were needed for the supply and funding of population-based Measures such as the test and vaccination strategy are found. In particular, the general shortage of nursing staff and their high workload as well as the poor performance of the public health sector had a negative impact on overcoming the challenges caused by the pandemic. From various sides, the lessons learned from the pandemic are that the healthcare system should be more oriented towards the common good, a national public health strategy¹⁶³ and in particular the strengthening of the public health sector and its Integration into the regional supply networks¹⁶⁴ as well as effective countermeasures Intensification of work in nursing and the shortage of nursing staff.¹⁶⁵

2.4.2 Education System

On the one hand, educational institutions from day-care centers to universities were not prepared for a crisis situation like the COVID-19 pandemic and, on the other hand, they were particularly affected by the contact restriction measures taken to combat them (cf. Section 2.2.2). What the As far as adjustments to the closures and partial closures of educational institutions are concerned, there are very large differences, especially between schools and universities, which will be discussed in detail below. Basically, two strategies for adapting to the situation must be distinguished: on the one hand, the switch to distance learning or home schooling and, on the other hand, the development of infection protection concepts that can be used to avoid complete closures.

Primary schools in Germany were closed for an average of 64 days between January 2020 and May 2021, and secondary schools for an average of 85 days. In an OECD comparison, this is slightly less than the average for the countries. In addition, there are partial openings, for example in the form of alternating lessons, which applied to an average of 118 days in the primary school area and an average of 98 days in the lower secondary area during the period mentioned, as well as exemptions from compulsory attendance for pre-ill children or children with vulnerable children Family members. With an average of 61 closed days, the day-care centers are slightly above the OECD average.¹⁶⁶

A central problem in the switch to distance learning was the international one

¹⁶³<https://zukunftsforum-public-health.de/public-health-strategie/>

¹⁶⁴See German Academy of Sciences Leopoldina 2020.

¹⁶⁵See https://www.buendnisjungeaerzte.org/fileadmin/user_upload/PDF/Offener_Brief_der_jungen_Aerzte.pdf and: <https://www.leopoldina.org/publikationen/detailsicht/publication/coronavirus-pandemie-medical-care-and-patient-research-in-an-adaptive-health-system-2020> see <https://www.divi.de/joomlatools-files/docmanfiles/publikationen/intensiv-und-notfallpflege/210309-stellungnahme-zur-staerkung-und-zukunft-der-intensive-care.pdf>; See <https://www.dbfk.de/de/presse/messengers/2021/COVID-effekt-weltweiter-Personallack-in-der-Pflege-feared.php>; https://www.dgiin.de/files/dgiin/aktuelles/2021/20210422_Onlinebefragung-Belastungserleben-CoronaPandemic.pdf

¹⁶⁶OECD 2021, 40.

See.

Comparison shows the deficits of German schools in digitization, some of which are considerable.

This affects everyone

Levels of digitization from the digital infrastructure (high-performance internet, digital Learning platforms and conference systems, devices for learners and teachers) to the digital skills of teachers and learners. In many areas, Germany achieves values that are well below average in an international comparison.¹⁶⁷ During the first phase of the school closures, the tasks that were carried out by the students alone or with them

Parental support should be processed, mostly by email, sometimes even by post.¹⁶⁸ Support from the teachers was often provided by telephone or – in the case of special needs – sometimes even through home visits.¹⁶⁹ In a survey, 70 percent of the teachers stated that their offers reached the students without any problems - even without the routine use of digital technologies. What is alarming, however, is that 30 percent of the teachers did not provide learning opportunities without problems or were unable to provide any information on this.¹⁷⁰ Some parents of disabled children felt completely abandoned.¹⁷¹ Even if the schools have made efforts to remedy the deficits in the field of digitization, there are still opportunities to use learning platforms and Conference systems are not available or only available to a limited extent.

Surveys of parents on the consequences of the school closures caused by the pandemic show that these were associated with considerable stress on the one hand, but also with positive experiences on the other. The greatest burdens were found for single parents with low income educational qualification¹⁷² and for people with children of kindergarten and primary school age¹⁷³. Stress is not so much the result of the need to spend more time with the children, but is mainly due to the demands of the parents' paid work and, to some extent, school.¹⁷⁴ Parents with a lower level of education feel less empowered than those with a higher level of education to support their children's learning at home and respond to this challenge with greater emotional distress. In a special survey by the National

In education panels, 23 percent of parents without a high school diploma stated that they had problems with the necessary support for 14-year-olds in the course of homeschooling – the corresponding proportion for parents with a high school diploma is 10 percent.¹⁷⁵ There is good evidence that parental experiences of helplessness and stress can negatively impact children's development.¹⁷⁶ Accordingly, the parental experience of ability and stress during school closures could also play a role in the connections between social inequality and educational opportunities during the pandemic, which have been proven many times.¹⁷⁷

¹⁶⁷See Eickelmann et al. 2019

¹⁶⁸See Eickelmann/Drossel 2020, 14.

¹⁶⁹See Maaz/Diedrich 2021.

¹⁷⁰See Eickelmann/Drossel 2020, 13 ff.

¹⁷¹See German Association for Rehabilitation 2021b, 136.

¹⁷²See Zinn/Bayer 2021.

¹⁷³See Huebener et al. 2020

¹⁷⁴See Knauf 2021.

¹⁷⁵See Sari/Bittmann/Homuth 2021.

¹⁷⁶See Masarik/Conger 2017.

¹⁷⁷See Vogelbacher/Attig 2021.

Similar to the parents, it also applies to schoolchildren that the effects of Pandemic on the learning situation vary differently depending on the group considered.¹⁷⁸ Some of the schoolchildren benefit from the opportunity to work independently at their own pace and state that they learn more effectively and cope well with the situation.¹⁷⁹ Others have problems with structuring their everyday life, completing tasks, boredom and lack of motivation. The two groups differ significantly in terms of their learning time and their learning progress; once there are differences in performance, they increase in the course of the pandemic in the sense of a scissor effect. Those who lose out in education are above all (but not only) the children of socio-economically (strongly) disadvantaged parents. According to the school barometer, unequal educational opportunities and the resulting scissor effects can be attributed to three reasons in particular: Differences in technical equipment (availability of devices, high-performance Internet access and up-to-date software), the spatial situation at home (lack of retreat and opportunities to concentrate), the lack of time and emotional resources on the part of parents and siblings to meet the demands of the teacher's role.

The closures of schools and day-care centers are associated with more serious consequences for children and young people from families with a lower socio-economic status or with a migration background, whereby the unequal distribution of the Educational opportunities further enhanced.¹⁸⁰ According to a survey by UNHCR and UNICEF Germany, asylum-seeking children lack the technical and other basic requirements for learning outside of school.¹⁸¹ A particular problem for children and young people with disabilities is the often lacking accessibility of digital offers (distance learning, digital advice and consultation hours). This also applies to students with disabilities. In many cases, you cannot use the offers without special adjustments. For example, people with hearing and visual impairments depend on special technical equipment and support that was not available to them, or not to a sufficient extent, during the COVID-19 pandemic.

¹⁷⁸See Huber et al. 2020

¹⁷⁹According to the school barometer, 24 percent of the students were (rather) of the opinion that they learned more under the conditions of home learning than in normal classes (Huber et al. 2020, 48 f.).

¹⁸⁰Ackeren et al. (2020) differentiate three empirically well-documented lines of argument that make it clear that the current corona crisis exacerbates existing social inequalities with every day without school on site. First, characteristic problems of longer periods without schooling are pointed out. It has been clearly proven that longer school-free phases (e.g. also holidays) in children and young people from underprivileged backgrounds, unlike their peers, who can fall back on family support to a greater extent, once acquired skills, because they are less used and promoted, tend to be more let go back. Second, differences in the access of children and young people to digital media – as a facet of a digital divide that still exists in Germany – are pointed out. Here there is a danger that learning materials delivered via distance learning are more difficult to access and cannot be processed in the allotted time. Thirdly, the results of the International Computer and Information Literacy Study (ICILS) are significant, which show for 2018 as well as for 2013 that, in an international comparison, a large proportion of schoolchildren in Germany (about a third each) only have very little digital knowledge available, many teachers are still not sufficiently trained or experienced in the use of digital media and many of the available digital tools have not yet been adequately quality-tested (cf. Eickelmann et al. 2019).

¹⁸¹See UNHCR/German Committee for UNICEF 2021, 12.

See.

The result is considerable educational disadvantages for learners with disabilities, especially at school, but also during their studies.¹⁸²

A similar picture emerges with regard to the development and implementation of concepts of the Protection against infection, which should enable at least partial openings of educational institutions. the

Schools were dependent on conceptual decisions by the school authorities, for example on alternating teaching models, which were often only made with a delay. Therefore, there was public criticism that the times between the pandemic waves had not been used to better prepare schools for the challenges of the pandemic.

In its decision of November 19, 2021, the Federal Constitutional Court ("Federal Emergency Brake II") stipulates that children and young people have a right to schooling vis-à-vis the state, which follows from Article 2(1) in conjunction with Article 7(1) of the Basic Law. The school closures to contain the pandemic are considered permissible in principle. However, the right to school education includes the right to equal access to the educational offerings within the existing school system and the right to distance learning in the event that face-to-face teaching is not possible for reasons of infection control. Accordingly, precautions must be taken to maintain face-to-face teaching as far as possible, and the technical and didactic requirements for high-quality distance teaching must be created. Compulsory attendance at school contributes to early detection of threats to the welfare of children.¹⁸³

Colleges and universities were also largely closed early in the pandemic. Starting in the 2020 summer semester, students in Germany will study digitally for three semesters. The return to face-to-face teaching did not begin until the 2021/22 winter semester. Lots

However, courses will continue to take place digitally or at least in hybrid form. Compared to schools, colleges and universities had a head start in digital teaching, both in terms of technical infrastructure and the digital skills of teachers and students. The entire administration and support structures were also converted to digital offers on an ad hoc basis. Technically and administratively, this has worked well compared to the schools, because colleges and universities can act independently on the basis of university autonomy and their relative budgetary sovereignty. This also applies to infection protection concepts, with the help of which educational institutions should be able to remain open at least partially.

Due to the legal framework, the universities reacted fairly uniformly despite their autonomy: digital teaching instead of physical presence, initial closures and only slow reopening of libraries and other facilities, etc. Not only because of the different teaching and learning requirements, but also thanks

¹⁸²German Association for Rehabilitation 2021b, 69 ff.

¹⁸³Federal Constitutional Court, decision of November 19, 2021 ("Federal Emergency Brake II"), Az. 1 BvR 971/21 and others (http://www.bverfg.de/e/rs20211119_1bvr097121.html).

to their greater freedom of decision the universities nevertheless keep the restrictions for students significantly lower than schools were able to do for the students. while the University teaching was offered digitally throughout, the offers for schoolchildren Students are often limited to self-learning tasks due to the lack of digitization in schools. However, it is only gradually becoming clear what deficits the (largely) digitally conducted semesters also mean for the studies and the education of the students as a whole. Two cohorts of students have started their studies in this form, the first cohort has already studied half of the regular study time of a BA degree digitally.

Overall, it has been shown that the hierarchical and bureaucratic structure of the school system in Difference to the autonomous self-government structure of the higher education system caused less adaptability in the crisis. In contrast to colleges and universities, digitally based or supported distance learning in schools failed Digitization deficits. Social inequality in terms of educational opportunities has increased. Lessons learned from the pandemic are therefore the strengthening of the personal responsibility of school management and colleges, concepts to support socially disadvantaged children and young people, a shift away from the one-sided view of the knowledge transfer function of schools and a strengthening of awareness of the relevance of schools as a social place .¹⁸⁴

During the pandemic, the freedom, development opportunities and social relationships of Children, adolescents and young adults are severely affected. They have been thwarted in important phases of their personal development and their education, which are usually Steps into which independence and personal responsibility as well as diverse social contacts and experiences are shaped and can only be made up for with considerable effort. With an undifferentiated approach, there is also the risk of excessive pressure to perform.¹⁸⁵The individual and social consequences of these restrictions are far from foreseeable.¹⁸⁶

2.5 Economic consequences of the pandemic and the fight against the pandemic

Even if the diverse economic consequences of the current pandemic and the measures taken to combat it cannot yet be conclusively assessed, it is already clear today that various problem areas - such as the prerequisites for sustainable economic growth, the inequality and distribution of economic Opportunities and risks, the regulatory performance of state organizations at national and international level and the sustainability of state finances - must be analyzed in a differentiated manner.¹⁸⁷Since the pandemic also coincides with other fundamental structural changes, such as demographic change, digitization and an orientation of economic activity towards demanding climate policy goals, a multitude of mutual effects can be expected, some of which will intensify, but

¹⁸⁴See Immerfall 2021; Schubarth 2021.

¹⁸⁵See <https://www.bayerische-staatszeitung.de/staatszeitung/politik/detailsicht-politik/artikel/nicht-ueberfordern.html> [<https://youtu.be/2K6sf7YxM9o>].

¹⁸⁶See Schubarth 2021.

¹⁸⁷German Academy of Natural Scientists Leopoldina 2021.
See.

some also can point in opposite directions. The German economy has so far proven to be relatively stable compared to other countries, which means good economic and labor market data

To take.¹⁸⁸ Nevertheless, the corona crisis has also caused considerable economic damage in certain sectors (e.g. event management, gastronomy and tourism) or for specific forms of employment (e.g. solo self-employed). The countermeasures ranged from state company participations, loan guarantees and tax breaks to industry-related corona aid and extended payments of short-time work benefits. Although they have alleviated some hardships, they will also put a considerable strain on public budgets for years to come and have caused national debt to rise sharply.

In view of the supposed conflict of goals between a flourishing economy and effective health protection, which was occasionally invoked at the beginning of the pandemic, it can be said that there can be no question of a simple either-or. It clearly falls short to assert a strict opposition between economic and health interests. Measures to deal with and contain the pandemic quickly do not have to be at the expense of economic development; on the contrary, they can serve to speed up recovery.¹⁸⁹ This applies even though concerns about negative economic effects have led to keeping economically relevant and sensitive areas of society free from pandemic-related impairments for as long as possible. As a result, stricter rules often applied in private life Contact restrictions than in commercial companies.

Not all of the difficulties that arose during the pandemic can be causally attributed to it. In some areas, the Corona crisis has only revealed certain fragilities that have existed for a long time and vary greatly from sector to sector²⁰⁴ – such as the dependency on international and just-in-time deliveries, labor migration and the associated loss of control (recognizable by the high incidence of infection in border regions), a shortage of skilled workers and deficits in flexibility and digitization that can be found at all levels. These fragilities also include insufficient coordination of monetary and economic policy, including European integration efforts that go beyond the crisis and increasing inflationary pressure. The current pandemic could therefore act as a catalyst

From an ethical perspective, it is particularly important to take appropriate account of the unequal burdens of both the pandemic itself and the measures taken to combat it. With regard to the economic consequences in particular, it has been shown that a pandemic affects everyone, but not everyone in the same way: Depending on the occupational group, type of employment and socio-economic status (e.g. precarious employees, small self-employed entrepreneurs), the individual burdens vary greatly. This is all the more true since, in addition to the losers, there are also isolated economic winners from the pandemic who offer goods and services that are in greater demand under these special conditions and generate correspondingly high profits.

¹⁸⁸See field 2021.

¹⁸⁹See Dorn et al. 2020.

²⁰⁴ Schmidt et al.

2020

See.

There are also indirect connections to the economic situation with the recognizable pandemic-related gender bias, insofar as additionally required care work was disproportionately transferred to women, which suggests a re-traditionalization of the professional and family image,¹⁹⁰ as well as with a view to the sometimes massive and possibly permanently impaired educational biographies. The latter is also an indication of how the economic perspective continues to consider longer-term consequences not only of the pandemic, but also of the Anti-pandemic measures to be taken into account¹⁹¹ and corresponding learning and guide adaptation processes¹⁹². This is especially true with regard to the health problems associated with negative economic developments. Intergenerational distribution issues should also be included in such a long-term perspective, since the decisions made now on how to deal with the pandemic will have significant consequences for future generations (cf. Section 4.4.1).

2.6 political consequences

Crises are repeatedly referred to as the "hour of the executive".¹⁹³ Apparently, in crisis situations, a strong executive is popular with large sections of the population. This also applies to the COVID-19 pandemic. At least at the beginning of the crisis, approval of the measures taken to contain the pandemic and the population's trust in the incumbent federal and state governments were high.¹⁹⁴ However, strengthening the executive branch inevitably has a downside, as it means a weakening of parliaments if they are not consciously re-involved. If judicial control is also reduced, the judiciary will also come under pressure.

In contrast to many other countries, the political institutions in this country did not declare a state of emergency during the Corona crisis, but acted on the basis of the constitution and the laws, especially within the framework of the Infection Protection Act. The measures to contain the pandemic are based on the general clause of the Infection Protection Act (Section 8 (1) IfSG), which was amended twice by the Bundestag during the pandemic. It allows certain fundamental rights restrictions if these are necessary to prevent the spread of infectious diseases. The Infection Protection Act also authorized the State governments to issue corresponding ordinances (§ 32 IfSG).¹⁹⁵ Also the The Federal Minister of Health was given extended powers to issue ordinances (e.g. to control travel). Additional far-reaching political decisions to deal with the consequences of the pandemic

¹⁹⁰See Möhring et al. 2020

¹⁹¹See Barabas et al. 2020; Field 2021.

¹⁹²See for example Ragnitz 2020.

¹⁹³Malte Lehming: Gathered around the flag. The executive wins in a crisis. Der Tagesspiegel from March 31, 2020, p. 4 (<https://www.tagesspiegel.de/politik/die-hour-der-executive-wie-die-corona-Crisis-die-herrschendenstaerkt/25697164.html>).

¹⁹⁴More on this at the end of this section.

¹⁹⁵Kersten/Rixen 2021, 48ff.

See.

related to labour, tenancy and social law as well as an extensive supplementary budget, which was used to finance various economic development measures, among other things.¹⁹⁶

Even if the German Corona policy was democratically legitimized, they had to

In view of the situation, parliaments make their decisions under time pressure, so that the public exchange of arguments could take place less than usual. In addition, parliamentary work itself was hampered by infection control measures. For example, public committee meetings were canceled at times, plenary sessions were compressed and the speaking time of MPs was reduced. The talk of the weakening of parliaments in the COVID-19 pandemic is therefore justified to a certain extent, but it mainly refers to their functional processes.

Despite these difficulties, the key decisions to contain the pandemic were made in parliament, i.e. by the legislature.¹⁹⁷In order to maintain the functionality of the parliamentary bodies, regulations for digital participation in committee meetings were established, as in many other areas.¹⁹⁸¹⁹⁹

Case law has also monitored compliance with the legal requirements and framework conditions during the pandemic. However, the courts were also only able to work to a limited extent during the peak phase of the pandemic due to infection control measures²⁰⁰and on the other hand initially very cautious in their judgments about drastic infection control measures.²⁰¹Despite qualitative challenges for parliamentary democracy, the fight against the pandemic was essentially carried out within the framework of the democratic constitutional and welfare state.²⁰²There are good reasons for calls from various quarters to ensure that parliamentary work and judicial control function better in future crises.²⁰³

In the COVID-19 pandemic, German federalism has also come under public criticism. the Like education policy, health protection is essentially a matter for the federal states. Therefore, the infection protection measures to combat the pandemic in the federal states were not consistently uniform, but differed significantly from one another in some cases. The people and companies affected often found this confusing or difficult to understand, especially in the vicinity of national borders or in the case of international activities. In addition, upcoming elections are obviously tempting people with political decision-making powers to engage in strategic communication. For example, the various levels of the federal system occasionally pushed each other, at least rhetorically, into political responsibility for the infection control measures. According to the constitutional allocation of competences and the Infection Protection Act, the federal states and municipalities are primarily responsible for infection protection, while the federal government only has limited responsibility for combating the COVID-19

¹⁹⁶See Kersten/Rixen 2021, 57 ff.

¹⁹⁷See Marshal 2021.

¹⁹⁸Leah Schrenk; Suzanne S. Schüttemeyer: Corona crisis: what are the consequences of the pandemic for democracies? bpb.de

¹⁹⁹05/05/2020. <https://www.bpb.de/310202>

²⁰⁰See Kersten/Rixen 2021, 251 ff.

²⁰¹See Marshal 2021.

²⁰²See Kersten 2021.

²⁰³Marshal 2021; Kersten/Rixen 2021.

See.

pandemic (§§ 4 ff., 28a IfSG). . Irrespective of this, it was not uncommon for the impression to be given that decisions on protective measures were being taken at the federal level or had to be made there. This was due to the special protective measures for Combating the COVID-19 pandemic (§ 28a IfSG) clearly. As long as the Bundestag an epidemic situation of national importance, the federal states could take the necessary measures Issue ordinances (Section 28a in conjunction with Sections 5 (1) sentence 1, 28, 32 IfSG). This determination expired on November 25, 2021. According to this, a corresponding resolution of the respective state parliament was required (§ 28 Para. 7 IfSG). Nevertheless, the federal states complained that there was now no basis for fighting the pandemic and called on the federal government to take action.

On the other hand, the omission of central decisions with uniform Germany-wide regulations also brings advantages. In general, what speaks in favor of federalism is that it counteracts a strong centralization of power and thus supports democracy and freedom. It enables regional peculiarities to be taken into account and thus counteracts an undifferentiated and schematic central government approach. With view on Pandemic protection measures tended to achieve a balance between central and federal decisions, with the federal decisions providing for measures that were partly coordinated and partly individually adapted.²⁰⁴A certain confusion is the price for this. The countries struggled to find appropriate protective measures in public. This created transparency and gave the state governments the opportunity to express their special responsibility for the population of the respective state.

Less in the public eye, but also worrying from the point of view of democracy theory, is the impairment of civil society political engagement through the contact restrictions. Discussion and cooperation were only possible digitally and were therefore severely restricted. In addition, there was a ban (at the beginning of the pandemic) or severe restrictions (in later phases of the pandemic) of public events and gatherings. In addition, the COVID-19 pandemic dominated the media agenda. Civil society organizations and other initiatives hardly had the opportunity to get their concerns heard.²⁰⁵The pandemic focused attention.

Another democratic challenge to pandemic policy is the risk of “technocratic governance” based on expert advice. Unlike Germany, the US and UK have well-established systems of government advisory bodies and "chief advisers". However, these were only used selectively by the governments of both countries during the COVID-19 pandemic, which was heavily criticized given the very high number of deaths. In contrast to this, the German political advice system can be characterized as an open system with numerous actors, through which politics is advised in a variety of ways and in a less concerted manner. German politicians took the advice of experts seriously and followed it in many cases. Organizations such as the National Academy of Sciences Leopoldina,

²⁰⁴See Behnke 2021.

²⁰⁵Schiffers 2021.
See.

mostly acted in an advisory capacity on their own initiative and presented various opinions with recommendations for containing the pandemic. In addition, the RKI, as the national Public Health Institute, which is an authority subordinate to the Federal Ministry of Health, gave daily management reports.²⁰⁶ Individual scientists also played a central role. Scientists, particularly from the fields of virology and epidemiology, where Political advice and information for the public were closely intertwined. Scientists from other disciplines played a much smaller role. In part, the Impression of a direct and not further justification-requiring derivation of political Decisions based on numbers such as the R value or the 7-day incidence.²⁰⁷

The antithesis of this “evidence-based governance”, as it was often described in the media as being without alternative, is what the WHO calls the “infodemic”.²⁰⁸²⁰⁹ This means the flood of false information about the virus and how to fight it, as well as the political motivations behind it, which spread in particular via social media. The fact that practically everyone was personally affected and the emotional impact of the topic accelerated and exacerbated the polarization of the discussion.²¹⁰

Politicians had little to counter this “infodemic”, which is primarily communicated via the press and public radio and television stations, which is why parts of the population who do not (or no longer) obtain information from these media were not reached. It was only relatively late that the Federal Center for Health Education made extensive information and education materials available on the website [fectionsschutz.de](https://www.fctionsschutz.de). The federal government now also has information on the corona virus in 23 languages²¹¹ and the intercultural health project “Mit Migranten für Migranten” (MiMi) even offers information and practical advice on SARS-CoV-2 in 33 languages²¹². Nevertheless, there is still a lack of culturally sensitive, multilingual education that also uses the communication options of social networks. As a result, many people could not be reached, only insufficiently or only very late.

People's trust in the German state as a democracy, constitutional state and federal state has suffered during the pandemic. Public approval of the Infection protection measures such as the closure of daycare centers, schools and universities, According to the Mannheim Corona Study, border closures and bans on major events was still over 90 percent in March 2020, but then decreased significantly during the course of the pandemic. The approval for the closure of day care centers, schools and universities decreased the most; this As early as June 2020, less than 25 percent of the people surveyed agreed to the measure.²¹³ Parallel to the decrease in approval of the Corona policy, approval of the extended executive rights also decreased. However, this is particularly true for people who perceived the pandemic as a less serious threat to themselves.²¹⁴ The development of trust in the federal government can be traced based on

²⁰⁶See Busch 2021.

²⁰⁷See Hegelich 2021.

²⁰⁸For a critical analysis of the concept of infodemic in the context of the pandemic, see Wäscher/Nguyen/Biller-Andorno 209.

²¹⁰Borucki 2021, 197.

²¹¹<https://www.integrationsbeauftragte.de/ib-de/staatsministerin/corona>

²¹²<https://www.mimi-bestellportal.de/corona-information>

²¹³See Blom 2021, 310 f.

²¹⁴See Blom 2021, 315.

the surveys carried out regularly by the COSMO study since March 2020. Accordingly, the initially high level of trust in the old federal government of Chancellor Angela Merkel decreased continuously during the course of the pandemic and most clearly between February and March 2021. After the new traffic light coalition to mid

December 2021 was able to gain a certain amount of trust in themselves are theirs

Approval levels have since fallen back to the previous low level.²¹⁵the

The loss of trust in the course of the pandemic is likely to be due, among other things, to the fact that the inadequate preparation for the pandemic in many areas of society, but above all the poor adaptability of public infrastructure to the crisis, has become increasingly clear.

²¹⁵COSMO: Trust in institutions (last updated: 01/14/2022), <https://projects.unierfurt.de/cosmo2020/web/topic/vertrauen-ablehnung-demos/10-vertrauen/#vertrauen-in-die-bundesregierung-im-detail> [02/15/2022]

3 Fundamental lessons from the pandemic: (social) anthropological certainties

3.1 Vulnerability as an interpretative category and the meaning of resilience

The pandemic has clearly demonstrated the vulnerability of humans as an inevitable part of the human condition. Vulnerability is a basic anthropological datum. She denies any form of exaggeration, which first and foremost interprets humans as self-sufficient beings who only become self-sufficiency and strength is impaired and only then is it dependent on solidarity support. Instead, the following applies: "We humans are all needy and [...] dependent on one another"²¹⁶ - with regard to both the physical and the psychosocial dimension of human existence. As a physical being, humans are physically vulnerable, particularly because of their bodily sensation of suffering and pain. People are socially and psychologically vulnerable in particular because they depend on reliable relationships and ties, on accommodating companionship and support and therefore on recognition and appreciation.

Vulnerability is therefore not just a selective vulnerability or weak point in a successful lifestyle that should be avoided if possible. In this respect, it is actually misleading or at least misleading to speak generally of "vulnerable persons (groups)" who require special protection, for example in the COVID-19 pandemic. This way of speaking can even become dangerous: if, for example, protective measures for certain social groups are justified on the basis of the vulnerability ascribed to them, then vulnerability is quickly reduced to disease-related vulnerability. Following this logic, the focus is primarily on people who are old, with previous illnesses or with disabilities. This tacit attribution is not only overly simplistic, insofar as, for example, a young person with cognitive impairments but without relevant previous illnesses does not have an increased risk of a severe or even fatal course of the disease in the event of a SARS-CoV-2 infection. In addition, this generalized talk about vulnerability, especially in connection with protective measures, is associated with a considerable risk of stigmatization - especially when a person who belongs to a particularly vulnerable group because of this

Affiliation is held responsible for the protective measures. In addition, the reduction to disease-related vulnerability can also be used to legitimize that protective measures because of this vulnerability are aimed particularly at individuals or that social groups are isolated solely because of this vulnerability, regardless of what other (self-)protective measures exist. But this all too easily leads to structural changes such as

Example, the dissolution of community accommodation or consistent

Infection protection regulations for employers and their employees at a glance. Above all, however, an undifferentiated talk of "vulnerable groups" ignores the fundamental vulnerability of all people. It makes you forget that vulnerability is a basic sign of every human being, even if the situational extent of the vulnerability of individuals or groups varies depending on their life situation and differentiated measures may therefore be necessary. (This is why the German Ethics Council has in some of its previous publications on the subject expressly spoken of "particularly vulnerable persons".) Rather, vulnerability is part of the given basic constitution of being human as a whole; one

²¹⁶Kamlah 1972, 95.

Basic constitution within which every human person lives their life in their reciprocal
Being dependent on one another must shape and can also shape in freedom.

This anthropological basic data finds concrete biographical expression in situational and structural vulnerability: situational vulnerability occurs in social, political, economic or also environmental constellations or interactions - in times of a pandemic, for example, in the exposure of physical and psychosocial integrity to a high risk of infection, possibly connected and compounded by a significantly increased risk of serious, perhaps even fatal, disease. It also occurs when dealing with the (psycho)social, economic or even cultural consequences of those measures that are intended to prevent or at least contain the spread of the pathogen.

The importance of structural vulnerability is also evident in the pandemic – and in two ways
Regards: First of all, affected persons experience severe losses and restrictions in their way of life from the social institutions or organizations in which they live, through their regulations and specifications, to which they are more or less inevitably subject. Structural vulnerability manifests itself here in vulnerability, i.e. in the injuries actually caused by certain institutions and organizations - in times of the pandemic, for example in the form of strict contact restrictions, which put many of those living in long-term care facilities to a sometimes extreme social isolation (externally and internally) subdued. Structural vulnerability is also reflected in that institutions and organizations are also vulnerable for their part - namely when they can no longer maintain their normal functional processes to the required extent under the extraordinary conditions of a pandemic (more on this under 3.2). The pandemic has revealed that, in addition to long-term care facilities, facilities for the disabled, day-care centers, schools and many areas of the health care system (preventive, therapeutic, rehabilitative care facilities or the public health service) are to a considerable extent susceptible to disruption or even completely at least temporarily not affected by the crisis had grown. Such vulnerability of institutions affects both structural, procedural and human resources as well as the qualifications of those working in these institutions. that, in addition to the long-term care facilities, facilities for the disabled, day care centers, schools and many areas of the health care system (preventive, therapeutic, rehabilitative care facilities or the public health service) were prone to disruption to a considerable extent or even completely unable to cope with the crisis, at least temporarily. Such vulnerability of institutions affects both structural, procedural and human resources as well as the qualifications of those working in these institutions. that, in addition to the long-term care facilities, facilities for the disabled, day care centers, schools and many areas of the health care system (preventive, therapeutic, rehabilitative care facilities or the public health service) were prone to disruption to a considerable extent or even completely unable to cope with the crisis, at least temporarily. Such vulnerability of institutions affects both structural, procedural and human resources as well as the qualifications of those working in these institutions. rehabilitative care facilities or the public health service) were prone to disruption to a considerable extent or even completely unable to cope with the crisis, at least temporarily. Such vulnerability of institutions affects both structural, procedural and human resources as well as the qualifications of those working in these institutions. rehabilitative care facilities or the public health service) were prone to disruption to a considerable extent or even completely unable to cope with the crisis, at least temporarily. Such vulnerability of institutions affects both structural, procedural and human resources as well as the qualifications of those working in these institutions.

In recognizing human vulnerability in all its dimensions (physical and psychosocial) and manifestations (basic constitution, situational, structural), it should not be overlooked that being human also has the element of creative power, even resistance. In the scientific discussion, the term “resilience” has established itself for this. Of course, human resilience would be misunderstood if one simply wanted to understand it as the counterbalance to human vulnerability, which could compensate for it or even make it forget. Rather, resilience means the strength in the midst of the situation of vulnerability and the concrete being injured with the resulting ones. Dealing with challenges in such a way that the possibility of a successful life remains open or can even be increased through increased sensitivity to the vulnerabilities and strengths of life. The resilient person is therefore not a person who largely shields himself from all vulnerabilities or tries to keep his dependency on others as low as possible, but someone who recognizes this mutual dependency as a potential for shared strength and learns to use it to shape the fragilities of life productively. In this social relationship to and from others, freedom can be self-responsible way of life, man's autonomy can occur as a determination of himself.

This will only succeed if people, in their specific vulnerability, like Resilience supported and recognized by different actors. The experience of recognition²¹⁷ in interpersonal relationships and belonging to communities²¹⁸ is also one of the basic requirements of a successful lifestyle - especially in extraordinary living conditions, such as those given during a pandemic. The experience of recognition relates to the situational vulnerability of the person or group of people concerned. The experience of belonging takes the form of concretely experienced solidarity. Recognition and belonging raise awareness of the respective situational and structural vulnerabilities and at the same time strengthen the resilience with which those affected learn to productively deal with these vulnerabilities through adaptation and transformative design.

The importance of recognition and belonging is already clear from a developmental psychological perspective. Vulnerability and thus also the need for help and support from other people are already among the earliest experiences of a person. When vulnerability and solidarity – on which people are dependent, but which can also be given to them again and again – combine in the experience and in the experiences of the person, a foundation is created for trust in the world, which can be called “basic trust”²¹⁹ can designate. On this foundation, they can too. Coping skills of the person arise, which in turn are an important feature of Autonomy – here in the sense of a self-determined lifestyle.²²⁰ It's for that. Understanding of psychological development is central to the fact that the insight into the legitimacy of one's own needs and desires (which one need not be ashamed of) is followed by the first steps towards developing coping skills (which allow confident commitment and protect against tormenting self-doubt). This makes it clear once again how closely – anthropologically speaking – vulnerability

²¹⁷See Honneth 1992.

²¹⁸See preamble to the UN Convention on the Rights of Persons with Disabilities (Federal Law Gazette 2008 II p. 1419, 1420).

²¹⁹See Erikson 1999, 241ff.

²²⁰In Erik H. Erikson's development model, this developmental step is characterized as the second step to be taken after the development of basic trust (cf. Erikson 1999, 245 ff.).

and the ability to cope with challenges and demands are related to one another. The development of these competencies (and thus of autonomy) can also be interpreted as the person's earliest response to vulnerability.

The coping skills are also central to the development of resilience (in the sense of psychological resilience): They form the core of resilience in stressful situations. Against the background of these statements, it becomes clear that the subjectively experienced vulnerability of the psychological development of the person - in their earliest development phases - can give important impulses.²²¹To what extent the construction of

Coping skills as well as self-determined lifestyle skills

("autonomy") is highly influenced by the social environment (family, neighborhoods, etc.) as well as by institutions.²²²²²³To the extent that institutions prove reliable and competent, they also contribute to the development of the autonomy and identity of the people who interact with them. (This also applies to crises of the person in later

Development phases – up to old age.) Institutions and organizations must also prove their robustness, their resilience, their resilience. Only then can they keep spaces open, even in extraordinary life situations, which are structured in such a way that productive coping skills can develop in them and these are not slowed down or even completely filled up.

The productive management of extraordinary life crises in the interaction of Vulnerability and resilience can itself lead to renewed recognition. Of course, each of these recognitions is ambivalent. Because it is precisely this that occasionally causes renewed injuries – for example, because certain groups of people are described as vulnerable in specific situations and, as a result of this act of recognition, are pinned down to their vulnerability.²²⁴For example, the recognition of a special risk of serious illnesses in older people in inpatient facilities and the associated need

Protective measures have sometimes contributed to the fact that the focus on their concerns, needs and preferences has been reduced to the motive of minimizing the risk of infection. On the other hand, other central needs (contact with relatives and loved ones, social participation) were overlooked, as were individual potentials, the use of which would have been a central concern for some of those affected. Similarly, there is a risk that a general weakness and neediness of older people is inferred from a higher risk of severe courses.²²⁵Ultimately, this would mean that the reciprocal relationship between the generations would be lost, as would the contribution Older to the success of society. Such a determination means stigmatization and humiliation²²⁶"as well as the humiliation" by the "denial of social esteem".²²⁷

The connection between vulnerability and resilience also has consequences for

²²¹For a lifespan developmental psychology perspective, see Kruse 2020.

²²²Here we would like to refer once again to Erik H. Erikson's development model, of autonomy and - in adolescence - Identity is always viewed in the context of the "reliability" and "competence to act" of institutions (cf. Erikson ²²³).

²²⁴See Butler 2004.

²²⁵See Ehni/Wahl 2020.

²²⁶See Margalit 1999.

²²⁷Honneth 1992.

relationship between justice and solidarity. Their own potential vulnerability makes everyone close
to

Equals in the need for solidarity and in the desire for fair participation. By doing

Vulnerability is recognized and respected as an essential criterion of being human

Solidarity in its equal originality with freedom and equality as an aspect of justice

accepted. For example, the insight into the inherent vulnerability of every human being influences the idea of solidarity, according to which healthy and capable groups should selflessly put their interests aside for so-called vulnerable groups. The changing attribution of vulnerability to different groups in the course of the pandemic has shown that not only older and disabled people, but also young people, families and children were vulnerable in different phases and in different forms. The problems outlined in the second chapter have made it clear that younger people in particular were particularly restricted by protective measures and were subsequently affected to a considerable extent by specific psychosocial difficulties,

Justice remains an abstract criterion if solidarity is not included as an interlocking element of freedom and equality. In this respect, the recognition of vulnerability is also evidence of a free and just society that sees justice unfolding in the triad of freedom, equality and solidarity. Such an idea of justice focuses on the inherent vulnerability of every human being to depend on others and thus also on social solidarity. The appropriateness of this point of view is proven in the current context of pandemic management by the fact that the transition to an endemic situation can probably only succeed if social solidarity is practiced in this sense.

3.2 Resilience and vulnerability from clinical-psychological and organizational theory perspective

In clinical psychological research, the term resilience refers to differences in the effect and processing capacity of risks or vulnerability factors.²²⁸ He describes the successful confrontation with burdens, whereby the successful

Confrontation as a result of an interaction between the person on the one hand, and the social immediate environment as well as the institutional environment on the other hand²²⁹. Vulnerability means in

In contrast, a lack of psychological coping capacities as well as restrictive living conditions (low education, low financial resources, low integration and participation), which for their part can show their negative influence on the health of the individual, especially in individual and social crisis situations.

But institutions from the various education and care segments are also showing characteristics in the current pandemic that can be described with the terms resilience and vulnerability. When we talk about the resilience of institutions, we mean that they have resources that enable them to behave adaptively and transformatively in relation to the needs and requirements of their users, even in times of social crisis.²³⁰ Mention should be made here of institutions that, for example, succeed in combining principles of health protection with those of autonomy and social participation of their users

²²⁸See Kruse 2017, 167-271.

²²⁹See Rutter 2012; Ryff and Singer 2003.

²³⁰Ratner et al. 2020
See.

bring users to the optimal match.²³¹This requires an effective design and Risk management, combined with appropriate equipment and skills-enhancing offers. The vulnerability of institutions, on the other hand, means that they do not have such resources and are therefore particularly vulnerable in times of a pandemic. Such Institutions only have insufficient equipment and, if necessary, are not able to replace conventional routines with correspondingly modified concepts and strategies. In the following, resilience and vulnerability in times of the pandemic are considered - and this from the perspectives of the person, the family and the organization.

*Person:*Studies show that an emotionally negative future perspective and a lower level of social support during the crisis led to a decrease in the person's self-assessed individual psychological resilience.²³²

Comparatively more pessimistic self-assessments of individual resilience turn out to be predictive factors for depressive symptoms, anxiety, suicidal thoughts, increased concerns about the consequences of the pandemic and greater difficulties in processing emotional stress associated with the pandemic. A number of factors that can be influenced – contacts with close people, daily organization and spirituality – seem to be decisive for resilience in times of the pandemic.

A representative analysis of the negative consequences of the pandemic for mental health for the German population as well as possible risk and protective factors²³³indicates that more than half of the participants were under anxiety and psychological stress and that the intensive preoccupation with the pandemic further increased vulnerability to psychological stress, anxiety and depression.²³⁴An international comparative study has proven to be a resilience-promoting strategy²³⁵according to the maintenance of a healthy lifestyle and social contacts, the acceptance of fear and negative emotions, the strengthening of self-esteem and information about treatment and support offers. On the other hand, substance abuse and the suppression of fears and negative emotions were identified as vulnerability-increasing characteristics. On average, women show higher levels of COVID-19-related anxiety, spend more time thinking about the pandemic (in the form of distressing rumination), and are more prone to depressive symptoms than men. The study further showed that younger people have higher vulnerabilities to stress, depression and anxiety and correspondingly higher support needs.²³⁶For the younger age groups - in contrast to the age group over 55 years - loneliness and financial burdens proved to be significant Vulnerability factors for anxiety and depression. For those under 55 years of age, sport and physical activity formed a protective factor against depression. The study arrives at that Conclusion, especially in times of the pandemic, the need for global public health Initiatives or interventions to promote healthy sleep and effective stress reduction.

²³¹See BAGSO 2020a.

²³²See Killgore et al. 2020

²³³See Petzold et al. 2020

²³⁴See Watkins/Roberts 2020; Whisman/duPont/Butterworth 2020; BAGSO 2020b.

²³⁵See Varma et al. 2021

²³⁶A distinction was made here between 18-34 years, 35-54 years and 55 years and older - all analyzes carried out in this study indicate that younger people are more vulnerable than older people.

Other international studies²³⁷ indicate an increased vulnerability to mental health problems in children who (a) have special educational needs, (b) have physical illnesses, (c) whose families are affected by financial problems, and (d) whose parents have mental health problems To suffer. Going to bed late, lack of sleep and inappropriate duration of school exercises with the parents as well as the excessive use of consumer electronics/media correlated both with the parents' experience of stress and with psychosocial stress on the part of the children.

Family: A systemic perspective that considers the possible effects of risk and stabilization factors in the family or in family subsystems on mental health is particularly recommended for the analysis of resilience-vulnerability constellations in children and adolescents. Since the subsystems themselves or the whole family are often affected by stressful external events, individual routines and rules that influence the development of the child (imparting information, sharing emotions, solving problems together, dyadic and family coping strategies [coping], giving meaning, spirituality, and instilling hope and confidence) may be abandoned, revised, or renegotiated.²³⁸ Depending on the extent to which family subsystems are already under stress before the emergence of crisis situations and are impaired in their (potential) support function, they can either act as resilience or vulnerability factors. Support measures should take into account the overall family situation.²³⁹

Organization: In a more general understanding, the notion of resilience refers to the processes and capacities that allow individuals or social, technical and natural systems to weather substantial crises, to withstand risks and adversities, to adapt and to recover from setbacks.²⁴⁰ In this context, others speak of resilient healthcare as a systemic ability to maintain normal functioning under both predictable and unpredictable conditions.²⁴¹ The vulnerability of organizations is particularly evident in the disruption or impairment of work and communication routines. Conversely, the resilience of organizations is reflected in their adaptive capacity. In this context, situational resilience means dealing with unexpected events at the micro level (e.g. patient flows, supply bottlenecks), structural resilience means the optimization of resources and practices at the meso level (e.g. adjustments to work processes, personnel deployment, hygiene concepts or

²³⁷See, for example, Tso et al. 2022.

²³⁸See Prime/Wade/Browne 2020; Walsh 2020.

²³⁹See Walsh 2016.

²⁴⁰See Juvet et al. 2021, 2nd

²⁴¹Anderson et al. 2020
See.

communication processes) and systemic resilience longer-term changes in resources and practices at the macro level (e.g. through administrative or political decisions).

The tense relationship between resilience and vulnerability in the case of the organizations of the Healthcare should also be viewed on three interacting levels²⁴²:

(1) the individual level, at which employees are confronted with problems and challenges, (2) the team level, at which its members agree on relevant challenges and problems and ways to counter them,

(3) the organizational level, where more extensive adjustments to work processes,

Communication structures and security concepts are decided and implemented. Restricting problem solving to the individual level ("first-order problem solving") can be effective insofar as it ensures appropriate patient care in a specific case. However, it should be borne in mind that communication deficits that exist at the team and organizational level (if, for example, experiences gained at the individual level are not represented and integrated) contribute to the persistence of problems and challenges. This reflects organizational or structural vulnerability precisely in the fact that the adjustments made at the individual (and/or team) level are not communicated and consolidated. Communication structures that ensure that individual security concerns, experiences and solutions can be articulated and heard.²⁴³

In the interest of a necessary promotion of the resilience of institutions in the healthcare sector (Not only) during the COVID-19 pandemic, it is important to strengthen workforces both quantitatively and qualitatively.²⁵⁶ Institutions that overlook the physical and psychological stresses on their workforce associated with the pandemic or leave them unanswered, or that are the only ones to avoid or deal with them interpreting the regulatory task of the state not only endanger the safety of the patients entrusted to them patients, but also the loyalty of their employees during and after Pandemic - and ultimately their long-term development opportunities.

The (social) anthropological verification of the interpretation categories of vulnerability and resilience shows: The pandemic confronts the fundamental vulnerability of humans. It makes it clear that it is not enough just to look at specific risk groups separately. Vulnerability is not just a characteristic of affected people, but also the result of comprehensive constellations in which risk factors and protective factors interact in a complex manner. To a large extent, these constellations can also be influenced and produced. Irrespective of this, the general inequality of health and life opportunities is also reflected in the health, psychological and social consequences of the pandemic. Not only individuals are characterized by specific facets and characteristics of vulnerability and resilience. Social networks, organizations and institutions are also vulnerable and resilient in specific ways. Accordingly, the question of appropriate pandemic management refers to the different levels and their interaction; possible measures are to be planned and evaluated at the various levels.

Both vulnerability and resilience have critical relevance for ethical decision-making conflicts.

²⁴²See Rangachari/Woods 2020.

²⁴³This statement can claim validity not only for the health system, but also in a very similar form for the economic and educational sectors. ²⁵⁶ Li et al. 2020

See.

Efforts to operationalize both with specific and even quantitative indicators for weighing and weighting processes underscore this fact. Vulnerability refers to different types of concern, protection and support interests. It becomes more specific for groups and regions depending on social, health and care-related inequalities, which can and must be weighted in the course of an integrative analysis. Quantitative vulnerability indices can – provided that up-to-date, meaningful data are available – provide comparative information and – after a successful evaluation – can be used to prioritize alternative objectives and specific measures. The unequal treatment of people based on empirically verifiable connections,

Discrimination of those who are already disadvantaged. Because the weighting of specific aspects of vulnerability also opens up new insights into causal relationships, which in turn increase (or reduce) existing social inequalities, which means that measures to reduce these inequalities (and possibly to promote resilience) can also be derived. For this reason alone, it is advisable to regularly check and, if necessary, adjust vulnerability indices, which are intended to depict specific risk constellations and coping resources (resilience). Against the background of indices that have already been evaluated and empirical findings obtained²⁴⁴When forming vulnerability indices, socioeconomic inequalities (e.g. income, education, poverty, unemployment rate, precarious employment), migration background and minority status, housing and household-related data, supply and service-related infrastructure, the spread of relevant

Pre-existing conditions (including the different types and degrees of need for care) and vaccination rates are taken into account.

4 Weighing decisions and their normative-criteria bases

The pandemic continuously requires complex balancing decisions. Such weighing decisions are ultimately of a political nature. However, they are not necessarily based solely on well-founded factual insights provided by natural or social science expertise. Because they also affect morally and legally relevant goods and options to a considerable extent, these weighing decisions must also fall back on legal and ethical criteria.

These must be developed and their relevance to pandemic crises clarified. At first

²⁴⁴e.g. B. Daras et al. 2021; Flanagan et al. 2011; Hot 2021.

See.

place is human freedom. If the (social) anthropological assumptions about vulnerability and resilience as constants of human existence apply, then human freedom is just as vulnerable as it is resistant and is always to be understood in its social references to other freedoms, not least taking into account its own enabling conditions. In this respect, the blanket comparison of freedom on the one hand and health protection on the other does not go far enough. Aspects of restriction as well as enabling freedom must be balanced in a complex way in pandemic policy. Freedom is realized on a political level in democratic

Decision-making processes that were formally guaranteed during the COVID-19 pandemic, just like legal protection proceedings, but were and are confronted with special challenges at the same time (cf. Section 2.6). This finding leads to some considerations that draw attention to the importance of reliable and robust institutions and procedures of democracy and political participation, as well as substantiating a pandemic policy in terms of fundamental and human rights theory. Since problems of social, but also intergenerational and international justice have particularly come to the fore during the pandemic, these will be examined in more detail. Another central normative criterion in the pandemic is solidarity. On the one hand, it showed itself in an impressive way in the voluntary commitment to fellow human beings.

On the other hand, it was also imposed on people as compulsory solidarity, which was associated with specific

burden of justification. The normative is also important for the deliberation process

Criterion of trust - in people and institutions. Trust in particular has been badly shaken in various areas of life during the pandemic. At the same time, however, trust is indispensable for successful crisis management. Finally, the criterion of

Responsibility, given the complexity and extent of the interventions in everyday life lifestyle of people at all levels of action must be taken into account.

4.1 Vulnerable and resilient freedom

The preservation or restoration of the greatest possible freedom represents a fundamental objective from an ethical and (constitutional) legal point of view. The individual freedoms are a direct result of the right of every person to determine their own self, i.e. their way of life. To determine oneself is in turn a direct result of the end in itself of every human being and requires the experience of a sufficiently strong affiliation to human communities.²⁴⁵ Self-determination is the "concrete-individual practical becoming of freedom"²⁴⁶. The strategy of physical distance, which is committed to protection against infection, has led in all its gradations to sometimes significant and far-reaching restrictions on freedom rights. Its strongest manifestation in the form of a comprehensive lockdown of private and public life can only be justified if "high mortality, long-term health impairments in significant sections of the population or the impending collapse of the health system"²⁴⁷ cannot be averted with less drastic measures. Once these goals are achieved, these restrictions on civil liberties must be withdrawn for both ethical and (constitutional) legal reasons.

Vulnerability (vulnerability) as resilience (resilience) as fundamental characteristics of

²⁴⁵See German Ethics Council 2018, 36.

²⁴⁶German Ethics Council 2017, 186.

²⁴⁷German Ethics Council 2021a, 2nd

human condition characterize human freedom: Because "there is neither a 'naked' life that could be determined without freedom, nor is there 'pure' freedom without the corporeality of human life"²⁴⁸. The vulnerability as well as the resilience of human freedom itself shows itself in different dimensions: Even the so-called negative freedom²⁴⁹ does not only take shape in the freedom from external specifications, for example in the form of infection protection measures that restrict freedom massively. Negative freedom also manifests itself in the freedom from inner restrictions and narrowing of personal life options, which result, for example, from the experience of (external) deprivation and hardship and can be reflected in paralysis and a lack of prospects.²⁵⁰ Conversely, this inner negative freedom is significantly strengthened in terms of its resilience, insofar as the person concerned has a sufficient degree of subjective security that gives them "calming and security".²⁵¹ or conveys reliability and trust in the future.²⁶⁵

At the same time, these presuppositions of inner negative freedom refer to the dimensions of so-called positive freedom. This, too, initially has an inner side – namely in the linking of one's own lifestyle to orientations that the person concerned is convinced of the meaningfulness of and which they therefore adopt as their own in the course of their self-determined actions and lifestyle. This positive freedom also has external sides - for example, where public services are used or the most diverse forms of human communitization are entered into: Mention should be made here of intimate couple relationships as well as social networks in the family, among friends and in the neighborhood or in larger social institutions such as educational institutions (daycare, school, university) and civil society associations to state organizational forms.

All of these inner and outer ties of positive freedom correspond to individual or situation-specific vulnerabilities of individuals. At the same time, they can be potential resources of personal and community resilience, which can protect or be activated against threats to internal and external freedoms. This shows the close interlocking of negative and positive as well as individual and intersubjectively enabled and accomplished freedom. In this sense, both negative and positive freedom, in their vulnerability and resilience, are communicative freedoms that not only fundamentally affirm the freedom of others, but also seek to link them with others for their own sake. In this respect, the freedom of each individual person is realized in²⁵² Communicative freedom is an expression of the close interweaving of negative and positive freedom.

Against the background of this understanding of human freedom, the significance of private, public and above all state institutions for the perception of freedom. In particular, institutions have the task of guaranteeing personal freedom – both for negative and positive freedom: institutions should

²⁴⁸Hacker 2021, 100.

²⁴⁹See Berlin 1969, 120 ff.

²⁵⁰See also Taylor 1988, esp. 132–135, for the concept of "internal" freedom of choice and action.

²⁵¹See Kaufmann 1973. 265

Kruse 2017, 273-

315.

²⁵²Huber 1983, 118.

See.

Minimize restrictions on external freedom to the bare minimum and optimally enable internal freedom (e.g. in the sense of subjective security). At the same time, they should protect and promote the internal and external forms of bonding and community building that are necessary for positive freedom – in the knowledge that all institutions are both freedom-enabling and freedom-enabling institutions

freedom-limiting effects can develop. This basic task private and public

Institutions for the guarantee of freedom correspond to the one introduced above (cf.

Section 3.1) structural dimension of vulnerability and resilience.

During the pandemic, both negative and positive freedom were severely restricted in some cases to protect against infection. For the question of the intensity of the restriction of freedom and its medium and long-term consequences, its duration is of considerable importance. Last but not least, longer-lasting losses of freedom – in the sense of the “inner side” of the understanding of freedom mentioned above – potentially lead to problematic habituation effects. This means that freedom must be at least partially re-learned and lived in the post-pandemic period. On the other hand, attention must be paid to the extent to which different freedom-impairing effects interact cumulatively and thus have adverse effects that go beyond mere addition. Concepts of legitimacy must therefore not start too selectively, but must be context- and consequence-sensitive. It is wrong to describe the freedom of one person as the limit of the freedom of another, as sometimes happens in the public debate, or to demand a quasi-utilitarian “overall balance of freedom”. Instead, conflicts between

Interests in freedom in a structured communicative process, ultimately in a democratic one to decide together. Ultimately, it concerns the theory of freedom and democracy

The key issue in dealing with a pandemic is the limits that the state should intervene in room for freedom must also be preserved if he fulfills his duty to protect the health of the Population copes with the exceptional conditions of a pandemic crisis.

Considerable consequences for the question result from the reflections on vulnerable and resilient freedom in its inner and outer, negative and positive dimensions

an ethical criteriology in dealing with decision-making conflicts: The regaining of freedom is not exhausted in the withdrawal of external restrictions of negative freedom, i.e. in the Restoration of freedom of movement or travel. It also includes safeguarding and supporting inner freedom through protection against health, social and, last but not least, economic hardship. In order to (again) enable freedom with a high level of commitment in the most diverse forms of human communitization, it is also necessary to secure and expand robust private and public institutions. Regarding children and Adolescents or young adults are, in addition to those related to education in the narrow sense Institutions such as day-care centers, schools and universities, especially leisure, sports and To name cultural institutions that are significant for the experience of belonging in free community formation. However, from a constitutional perspective, it should be noted that when balancing the conflicting interests - there health protection, here the consequences for the Realization of internal and external freedom - there are no statically fixed limits of what is permissible from the outset, apart from the required guarantee of certain minimum standards (Protection of human dignity and "core areas" of fundamental rights). The principle of proportionality as a regulative grants the democratic legislature scope to be developed across various levels, which does not necessarily lead exclusively to one solution, but may recognize various justifiable solution variants (cf. Section 5.1.1).

This closes the gap to the theoretical meaning of trust in state and social solidarity structures, but also in the democratic ones decision-making mechanisms. At the collective level of legitimation, these represent the counterpart to the safeguarding of individual freedom. At the same time, they are the central location for decisions on the limitation of freedom and thus influence them at an early, formal level Acceptance. It is obviously easier to accept a loss of freedom if the relevant decision-making structures prove to be reliable and predictable - at least within the limits of a naturally dynamic and largely unprecedented fight against a pandemic. That too is a form of robustness.

4.2 Reliable and robust institutions and processes of democracy and political participation

Democracy and political participation are indispensable as safeguards and forms of expression of both vulnerable and resilient freedom. Especially under the conditions of a pandemic, the cooperation of state institutions based on the rule of law, the embedding of state decision-making procedures in the entirety of social opinion-forming and self-understanding processes, the opinion-forming function of media communication and, last but not least, the most far-reaching possible political participation of those affected in those decisions that they make in directly affect their way of life as highly significant.

Every liberal democracy thrives on a functioning, constitutionally structured democracy Division of tasks between legislation (legislature), government and administrative action (executive) and the judiciary (judiciary). In this respect, it must be said that "crises

Hour of the Executive" are cause for concern. As a normative requirement, this would be highly dangerous. Undoubtedly, an imminent "imminent danger" requires a government and public administration (public health and security service, civil protection, etc.). You should be able to fall back on previously developed and tested emergency plans and implement them consistently if necessary. However, the primacy of the legislature must be taken into account - especially when, in times of crisis, there are significant interventions in the rights and/or lifestyle of people over a longer period of time. At the very beginning of the Corona crisis, the German Ethics Council pointed out the basic democratic requirement that "[particularly] painful decisions [must] be made by the bodies that are mandated for this by the people and accordingly also in political responsibility".²⁵³In this sense, pandemic crises in a democracy should prove to be hours of parliamentary politics. This may make use of scientific expertise in order to make appropriate decisions decisions to come. But even this expertise can and must never be the political one Replace decisions of parliaments or executive bodies.

Especially in crises such as pandemics, the judiciary and in particular the Federal Constitutional Court play a role in stabilizing democracy. That the courts do not play the role of a Quasi-legislators have taken over, but - such as the Federal Constitutional Court in the Decisions on the "federal emergency brake"²⁵⁴– on the far-reaching assessment and Design freedom of the legislature is referred to, also corresponds to this in material terms principle of democratic rule of law. Nevertheless, in the course of the COVID-19 pandemic, there were also obviously problematic regulations – such as contact restrictions in the open air with questionable benefits for protection against infection or isolation measures for the dying – which the courts did not counteract, or at least not early enough and decisively enough. At times, astonishing ambiguities in ordinances and other regulations have been revealed by court decisions²⁵⁶- Situations that, after almost two years of the pandemic, can no longer be explained or even justified by simply pointing to excessive demands and uncertainties.

Especially in the case of drastic measures in times of pandemics, a high degree of unambiguousness, clarity and traceability is essential. If there are repeated incomplete, unclear or simply incomprehensible regulations, confidence in the rationality of measures to protect against infection or contain the pandemic can be shaken (cf. Section 4.6). This not only endangers the necessary acceptance of the norm, but also the indispensable participation of the general public in the fight against the pandemic. This always depends on a society-wide effort, which, however, cannot be

²⁵³German Ethics Council 2020a, 7th

²⁵⁴BVerfG, decision of November 19, 2021 ("Federal emergency brake I"), Az. 1 BvR 781/21 and others (http://www.bverfg.de/e/rs20211119_1bvr078121.html); Resolution of November 19, 2021 ("Federal Emergency Brake II"), Ref.

²⁵⁵BvR 971/21 and others (http://www.bverfg.de/e/rs20211119_1bvr097121.html).

²⁵⁶The decision of the Bavarian Administrative Court, decision of January 19, 2022, Az. 20 NE 21.3119 (<https://www.vgh.bayern.de/media/bayvgh/presse/21a03119b.pdf>) is significant. Here it is criticized that a regulation lacks a "comprehensible, coherent and recognizable regulatory intention of the legislator" if the terminology used does not match the "list of concrete examples of rules in to reconcile nor to take a uniform connecting criterion from the list of rule examples".

forced to the required extent. The necessary voluntary participation of the population requires their insight into the usefulness of the prescribed measures.

Linking government decisions and regulations back to the insight and voluntary participation of the population not only serves the strategic interest of effective Pandemic control ("compliance"), but also reflects a requirement of the Republican dimension of a liberal democracy. State decisions and procedures require the Embedding in the opinion-forming and self-understanding processes of a reasoning Publicity. Such processes, like elections, serve to control and legitimize state power. The variety of public opinions, which develops in the course of the formation of will within a state-constitutional community, offers important points of reference for the decisions of state organs and in particular the parliamentary legislature. Public discourse requires places or opportunities for lively controversy. All decision-making processes of state institutions are ultimately based on these civil society resources of the living environment, i.e. "on a free political culture and an enlightened political socialization, above all on the initiatives of opinion-forming associations".²⁵⁷reliant.

During the pandemic, many of the usual occasions and places could become more deliberative communication cannot be used due to the applicable contact and mobility restrictions. Political communication in clubs, initiatives and associations was - if it took place at all - relocated to virtual space, which can hardly replace or even create the liveliness of present gatherings. Even party events were largely held digitally.

In view of these limitations, the function of not only social media but also that of the mass media for political deliberation is all the more important. Mass media communication enables structured formation of opinions in a thoroughly heterogeneous public. It thrives on argumentative debates in which reasons for different views are brought to bear and weighed against each other in conversation. Especially in times of crisis, the mass media and in particular the public radio and television stations have the indispensable task for a republican democracy, the contentious one To make the pros and cons of measures audible and visible in a reasoning public. The critical part of this task was not always imminent at the beginning of the Corona crisis desirable level. The reluctance to focus sharp criticism on every detail in view of the size, the novelty and the "suddenness" of the pandemic problem may well have been understandable and justified. As the pandemic progressed, however, even obvious undesirable developments were hardly addressed with the necessary clarity by a journalism that saw itself as "constructive" or "sensitive to the common good". Reporting by the (mass) media that is too affirmative or one-sidedly pleading fails to stimulate the formation of opinions and will in a democratic public with indispensable counter-accent. In this sense, the self-critical Opinion articles from Neues Deutschland agree: "The crisis and state of emergency must not be used as an opportunity to forego critical journalism. Because that's when he's required! It must show the political and social conflicts that are under the 'priority of the

²⁵⁷Habermas 1996, 292.

'Fighting a Pandemic' are not disappearing but are threatening to fade into oblivion. Keeping the awareness of contradictions alive and offering them a forum would be an educational task in the midst of all the media hustle and bustle."²⁵⁸

The normative target option of political participation is closely linked to the idea of a liberal and republican democracy as a form of government. Affected people should be involved in decisions about the design of their immediate surroundings and the places where they live together on the basis of equality and shared responsibility. It is a requirement of political justice to enable effective participation in the design of shared public space. Such participation is by no means limited to the societal macro level, where civil society and social movements act as antagonists to state institutions and bodies, accompanying social negotiation processes in a constructive-critical manner and challenging state action in the best sense of the word. Rather, political participation particularly affects the societal meso-level – when, for example, people in neighborhoods or institutions live together voluntarily, but sometimes also out of necessity, and – such as in long-term care facilities or integration assistance – in their everyday life significantly depends on the regulations of the institutions or the decisions of their lines are affected. In many such facilities, various forms of participation, such as home advisory councils, are established and in some cases required by law. Nevertheless, during the pandemic, legal requirements, such as hygiene concepts, were often implemented by the management at short notice and without the participation of those affected. There would certainly have been leeway, the creative use of which would have been in the interests of the people concerned.

Irrespective of the ultimate responsibility of facility managers, which is also legally provided for Regulations that serve a prosperous coexistence that is compliant with infection protection in times of a pandemic, participation rights and participation procedures must be established so reliably that political participation relevant to decision-making is ensured at all times. This was exactly the focus of the self-help organization "People first", which began to demand the participation rights of people with (cognitive) disabilities, especially in their institutions and in their communal or neighborhood places, under the internationally influential motto "Nothing about us without us". When it applies to state action in times of the pandemic that the corona crisis is "the hour of democratically legitimate politics"²⁵⁹is, then should face significant cuts in the immediate

²⁵⁸Hayner, J.: Pandemic and journalism. nd.The week of November 13th/14th, 2021, p. 9
(<https://www.ndaktuell.de/artikel/1158554.medien-und-corona-pandemie-und-publizistik.html>).

²⁵⁹German Ethics Council 2020a, 7th

Lifestyle for most social and also facility-related

Areas of life apply: Pandemics are the hour of effective political participation.

4.3 Human rights as an interface for ethical, (constitutional) legal and political considerations

Human rights discourses that make the ethical content of human rights visible help to ensure that the democratic design or limitation of basic rights, which are positive human rights, does not come at the expense of their inherent critical potential. Despite all legal discourses on fundamental rights, the regulation of pandemics often lacked a sufficiently developed sense of how problematic numerous measures were from a human rights perspective. These discourses, like the ubiquitous talk about vulnerability, have not prevented the basic and human rights of children, the elderly or those in need of care, as well as disadvantaged and marginalized groups such as the homeless,²⁶⁰ Making people who are not visible enough visible is the task of human rights discourses, which, alongside genuine legal ones,

Fundamental rights discourses - and these supplementing and correcting - have an independent meaning.

The alleged lack of human rights sensitivity in pandemic regulation is based on an understanding of human rights that the "ethical unrest" of human rights²⁶¹, which continues to have an effect in its legal form, takes it seriously. According to this understanding

Human rights show a normative excess that points beyond the current state of positive legal fundamental rights discourses. It ensures that the democratically legitimized design and limitation of fundamental rights is not misunderstood as a discourse freeze, but that the critical potential of ethical human rights discourses remains effective and is repeatedly subject to review and review Stimulates the correction of political constitutions and limitations of fundamental rights.

An understanding of human rights that is not narrowly defined in legal terms, but is aware of its ethical roots, can creatively relate moral-philosophical discourses on human rights and legal fundamental rights to each other.²⁶² In this way, they can stimulate each other and help identify and eliminate blind spots: on the one hand, in the democratic design and limitation of fundamental rights; on the other hand, with an ethical human rights consideration that considers restrictions on freedoms to be unacceptable from the outset because they do not adequately recognize that fundamental or human rights also function as an orientation for the political organization of coexistence.

The idea of human rights includes the insight that, firstly, all people are fundamentally endowed with them, regardless of their social status, gender, age, origin or other individual characteristics. This comes in principle of the inclusivity of the

²⁶⁰See Rudolf 2021.

²⁶¹See Dürig, in: Maunz/Dürig, GG (1958), Article 1, para. 16.

²⁶²Alexy 1998.

See.

protection of human rights. This includes that explicitly as well
People who like children and young people as well as many socially disadvantaged people for the
dependent on help and support to exercise their rights are included in the protection of human
rights.²⁶³Second – the principle of the universality of
Human rights alike – all human beings are entitled to equal respect for theirs
human rights. In order to actually implement this claim, human rights for individual groups and
people must be made more concrete and precise.²⁶⁴On the one hand, the general vulnerabilities of
certain groups resulting from the peculiarities and special needs and living conditions and, on the
other hand, the situational vulnerabilities of individual people must be taken into account. The fact
that the right of all people to equal respect for their rights also includes those who are affected or
threatened by exclusion is reflected in the human rights emphasis on the right to free and equal
participation in society.²⁶⁵

The implementation of the principle of the universality of human rights in the so-called Convention
on the Rights of Persons with Disabilities makes it particularly clear that the distinction between civil
liberties and political rights is primarily negative
(Defence) rights on the one hand and economic, social and cultural positive ones
(entitlement) rights, on the other hand, is to be understood less as a contradiction than as a
supplementary relationship in the more recent understanding of human rights.²⁶⁶This is expressed,
for example, in the fact that civil liberties and political rights are combined with comparatively
extensive and differentiated claims to accessibility, support services and assistance depending on the
particular needs and living conditions. The economic, social and cultural human rights, on the other
hand, are emphatically liberal in order to consistently exclude paternalistic tutelage and
heteronomy.²⁶⁷

A concept of the common good, which is sensitive to human rights, is not in conflict with this. In a
certain understanding, the concept of the "common good" (*bonum commune*) refers to the good
constitution of a social whole that transcends all particular interests and can be used as a
The epitome of all that is to be understood in terms of material and procedural preconditions
realization of individual or social interests is necessary. At the conceptual level, all attempts to
conceive the common good either as a free-floating good in contrast to the people who form the
community or to propagate a utilitarian offsetting of the rights of certain individuals in favor of the
greater whole are out of the question. Organological figures of thought, such as those that appear to

²⁶³See Tugendhat 1998.

²⁶⁴See Riedel 1999.

²⁶⁵See Bielefeldt 2006.

²⁶⁶See Gosepath 1998.

²⁶⁷Graumann 2011, 80-134.

See.

this day in certain traditions of state theory or in certain ideas of collective health protection (e.g. the world of ideas of “public health”), are in danger of violating the rights of individuals or

of certain groups indiscriminately subordinated to the common good and thus put into perspective. Because of these latent dangers, it makes sense, in connection with the – in itself extremely complex – contemporary human rights discussion when analyzing measures to combat the pandemic to identify grievances that lead to avoidable impairments of certain elementary legal rights. A comprehensive understanding of human rights contributes precisely to this. Because it acts as a critical impulse that sets the usual, seemingly self-evident routines of interpretation in legal discourse in motion. The Federal Constitutional Court on the occasion of the judicial review of the Pandemic regulation based on borrowings from international human rights documents “Right to school education”²⁶⁸ illustrates the critical-creative potential of such human rights discourses.

In pandemic crises, ethically motivated human rights discourses must remain effective as a critical corrective both in legal discourses and in political debates aimed at defining and limiting fundamental rights. Last but not least, such discourses contribute to the fact that all interacting dimensions of human rights protection (respect, protect, fulfill) are permanently observed in the political pandemic regulation and are differentiated according to the guidelines of the distinction between specific, structural and situational vulnerabilities.

4.4 Justice

Measures taken to counter pandemic events not only need to be effective and proportionate, they should also be assessed individually and collectively to determine whether they are fair. If the concept of justice is not to degenerate into an empty rhetorical formula behind which only particular interests or diffuse emotional states are hidden, then it is essential to distinguish between different dimensions of this complex category. Different terminological internal differentiations have developed over time, which contribute to the structuring of the justice discourse. They follow different classification logics that cannot easily be harmonized with one another.²⁶⁹, only those aspects are to be developed in more detail below that appear to be particularly important for the context of pandemic management: In addition to the requirement that the decisions to be made are appropriate, these are firstly the social, intergenerational and international implications of distributive justice and secondly the concept of empowerment justice.

To ensure the appropriateness or appropriateness of measures taken by

²⁶⁸BVerfG, decision of November 19, 2021 (“Federal emergency brake II”), Az. 1 BvR 971/21 et al., para. 66 et seq. (http://www.bverfg.de/e/rs20211119_1bvr097121.html).

²⁶⁹German Ethics Council 2017, 219 et seq.
See.

To increase the fight against pandemics, the scientific basis and thus the epistemic conditions for decision-making must be successively improved. This applies to research into the respective pathogen, the disease and the course of a disease

Pandemic and the development of suitable vaccines and drugs as well as the comprehensive analysis of the consequences of various political measures. A particularly important element for efficiently containing the pandemic is research into the dynamics of the infection and the possibilities for effectively slowing it down. As long as it remains unclear in which constellations the sources of infection are most likely to arise, it is impossible to pinpoint precisely to take countermeasures. Especially with a view to the systematic data collection, However, during the course of the COVID-19 pandemic, there are serious deficits (see Section 2.2.2).

As already explained above, the main problems here are in the area of test strategy (cf. Section 2.2.3), contact tracing (cf. Section 2.2.4) and determining the consequences of contact restrictions (cf. Section 2.2.2). The fact that there was no early, broad (mass) testing strategy meant, among other things, that the number of people actually infected could not be precisely determined. Furthermore, the – initial – lack of a digital infrastructure resulted Contact person tracking in a qualitatively often insufficient data collection by the health authorities. Especially with regard to drastic measures such as longer ones Contact restrictions, the comprehensive determination of the consequences and side effects is of great importance in order to assess their actual effectiveness and appropriateness and to avoid or mitigate particular hardship for certain groups of affected people. Not collecting and evaluating socio-demographically detailed data on pandemic-related disadvantages represents a serious omission, even in an international comparison. The entire population potentially has to bear the consequences of this omission with recurring, blanket restrictive measures (lockdown or shutdown). Even if the adequate implementation of the desirable studies requires considerable financial and organizational efforts, the data and knowledge generated in them are essential, in order to better adapt measures to restrict public life to the respective local risk situation in the future and thus avoid unnecessary burdens for certain groups of people and areas of life or to justify political decisions on such measures more plausibly to the population. The elementary requirement of appropriateness therefore demands that political decisions are not only based on the best available empirical evidence, but also on its scope and quality over a longer period of time to gradually improve crisis situations, also through suitable research efforts.

Having said that, two dimensions of justice will be examined in more detail below. This can only be done here as an example. With regard to the various measures to combat the pandemic, there are also a variety of questions, such as political justice (especially with regard to appropriate opportunities for those affected to participate in the political negotiation processes for the implementation and monitoring of the respective rules: cf. Section 4.2) and legal justice (both in terms of legal conformity of the individual regulations as well as with regard to the law-abiding of the individual citizens when following them), but in the following the central anthropological preliminary considerations on vulnerability and resilience (see Chapter 3) above all Aspects of distributive and empowerment justice are considered in depth.

4.4.1 distributive justice

In the context of combating a pandemic, numerous questions arise about a fair damage, Risk and benefit sharing associated with health, social, economic and cultural The consequences of the measures taken in each case not only affect very different goods and affect areas of life, but also – regardless of the diverse networks – are very different at the national, European and global levels. Three areas have been singled out from the wealth of phenomena relevant in this context: first, questions of social justice, second, various aspects of intergenerational justice, and third, distribution issues relevant to health policy.

a) Social justice concerns

It is still too early to make a final assessment of the many negative effects of the COVID-19 pandemic. However, it is clear that the countermeasures taken in different countries must also be judged according to whether and to what extent they meet the requirements of social justice. Public budgets around the world are making considerable funds available to combat the consequences of the pandemic - in Germany alone, around 1.5 trillion euros were estimated for this expenditure in the budget years 2020 and 2021.²⁷⁰ However, say such Totals do not say anything about the accuracy and efficiency of the measures they finance, nor do they provide any information about their suitability to sufficiently cushion the social hardships of the most heavily burdened groups of people. Irrespective of the self-responsibility of each individual, which is ethically required even in times of a pandemic, the postulate of a priority concern for the most vulnerable and therefore particularly on help and Support dependent groups of people - such as people with chronic Illnesses and disabilities, people in precarious employment, The self-employed with insufficient social security, refugees and homeless people - an integral part/orientation point of distributive justice. Since pandemic crises can dramatically exacerbate precarious living conditions and vulnerabilities and sometimes make them visible to third parties for the first time, the basic needs of those affected must be given priority in political decisions. But even on this side of special cases of social hardship and acute emergencies, there is a broad spectrum of experiences of unequal treatment that mark challenges relevant to distribution ethics. Not only were those already insecurely employed, such as the self-employed, but also members of certain occupational groups who had previously been in secure employment (e.g.

In the family area, too, completely new everyday routines had to be practiced due to home office, home work and home schooling (see Section 2.4.2), which emphatically raised the question of a gender-equitable distribution of care work and social inequality had a particular impact. Even if the resulting burdens were not primarily of a financial nature or did not lead to acute economic existential difficulties for those affected, they nevertheless illustrate the variety of social challenges that result from measures taken by the pandemic control, hitting some populations much harder than others.

²⁷⁰See BT Dr. 19/25571 (p. 5), <https://dserver.bundestag.de/btd/19/255/1925571.pdf>. In addition to the budgetary measures, the total also includes guarantees from the federal and state governments totaling over 800 billion euros, which only have an impact on the budget when they are called upon.

b) Aspects of generational justice/intergenerational justice

Another area of distributive justice that is particularly important in the context of the pandemic is so-called intergenerational justice. As shown in 2.3.2, the various age groups were and are affected by mental stress to different extents during the COVID-19 pandemic, with younger people showing particularly strong stress reactions. In general, the reference to generations in the fight against a pandemic is important in terms of ethics of justice in at least two ways: on the one hand, it is related to the present (synchronous), i.e. with a view to the current age-group-specific unequal distribution of burdens caused by the pandemic and the measures taken to contain it;

The first aspect is particularly relevant because children, young people, trainees and students had to endure considerable restrictions in their lifestyle in the name of infection control. In addition, they had to cope with losses and setbacks in their educational biographies as well as opportunities for self-realization and development, without these victims having been adequately recognized in the public eye to date. If, for example, the quality of teaching ultimately depends on the very different digital equipment in the schools and the relevant skills of the teachers, then not only that

equal opportunities at risk. Rather, there are also questions of intergenerational justice, as the school closures, especially during the first wave of the pandemic, were aimed at curbing the spread of the virus and thereby protecting the particularly vulnerable elderly from infection. It is an imperative of justice, in a fair way

Overall consideration not only the special need for protection, for example of very old people in to take into account, but also those associated with the protective measures taken. Sacrifices and burdens suffered especially by the younger generation and their support system.

The second aspect of intergenerational justice concerns the long-term consequences of the measures taken now for future generations. In this context, it is particularly relevant that public budgets are largely financing the follow-up costs of the pandemic through new debt. In view of the resulting rapid increase in national debt, future generations will have to bear the main burden of financing the costs of the pandemic. Although it is fundamentally correct from a regulatory point of view to react to crisis situations with stabilization measures, the demographic development into account. Due to the special demographic situation in Germany, which can be described as a population that is either under-aged or over-aged, depending on the perspective, the problem of a medium- and long-term fair distribution of burdens across generations is becoming particularly important.

c) Justice-related distribution problems in the healthcare system

Various questions of distributive justice in the health care system have been particularly explosive in the course of the COVID-19 pandemic so far. From the wealth of individual problems already addressed in the second chapter, only three will be dealt with in depth here: firstly, the focus on the disadvantages for people with other medical treatment needs that have arisen with COVID-19, secondly, dealing with the extreme lack of intensive care resources, which is the case in some

countries made so-called triage decisions unavoidable, and thirdly, questions of distributive justice in the context of the vaccination strategy.

In view of the first problem area, the strong focus on public Attention to people suffering from COVID-19 in connection with an ad hoc established system of so-called flat rates for the hospital operators temporarily meant that other groups of people with an urgent (e.g. oncological) need for treatment suffered significant and sometimes irreparable health damage (cf. sections 2.3.1, 2.4.1). In the interest of justice, precautions should be taken so that in the future, even in exceptionally stressful situations, all patients who urgently need clinical treatment have equal access to it without being discriminated against because of the nature of their illness.

The second problem area, the prioritization of scarce intensive care resources under pandemic conditions, also led to an intensive public debate. Despite the large international comparison of intensive care treatment capacities, the criteriological bases of triage have also been decisions discussed. The focus was primarily on two possible competitive situations, the first of which can occur on admission to the intensive care unit if, for example, the number of unoccupied ventilation places is smaller than the number of patients who urgently need them (so-called ex ante triage). The second concerns the possibility of terminating life-sustaining intensive care treatment that has already started in order to free up resources in the event of an emergency patient with a more favorable prognosis (so-called ex-post triage).²⁷¹ Among other things, it was controversial whether it is possible to use the two criteria of "urgency" and "urgency" used by most medical societies

"prospect of success" of the treatment²⁷² to be specified and implemented in concrete medical instructions in such a way that indirect forms of discrimination (e.g. feared for people with disabilities) can also be effectively ruled out.²⁷³

²⁷¹See German Ethics Council 2020a.

²⁷²See DIVI recommendations (<https://www.awmf.org/leitlinien/detail/ll/040-013.html>).

²⁷³See Bormann 2021a; Lob-Hüdepohl 2020.

In the meantime, the Federal Constitutional Court has upheld the complaints of several people with disabilities and found that "[t]he legislature [has] violated Art. 3 Para. 3 Sentence 2 GG because it failed to take precautions so that nobody is disadvantaged because of a disability in the allocation of vital intensive care resources that are not available for everyone". The legislature must now ensure this "immediately [through] suitable precautions".²⁷⁴ Within this criteria Framework would leave room for the medical societies, additional concretization Develop guidelines for triage decisions.

In addition, there were controversial legal assessments, especially of ex-post triage, which confronted medical staff with considerable legal uncertainty.²⁸⁸ However, what was mostly overlooked in the academic debate was the fact that this is already common in the preclinical area Prioritizations - and then selection decisions as a result - were made on an unclear criteriological basis in the sense of "grey triage". This applies, for example, to the phenomenon already described under 2.3.1, that numerous patients from inpatient facilities for geriatric care were not even referred to clinical treatment, although this would have been necessary and possible with sufficient clinical prospects of success. Since there are currently no generally accepted rules for dealing with triage decisions, either at national or international level, it would be desirable

In general awareness, questions of distributive justice are likely to be associated primarily with the third problem area, in which it is a question of the detailed design of an appropriate vaccination strategy. Due to the different nature of the relevant problems here, it makes sense to differentiate between a national and an international perspective. In view of the at least initial shortage of vaccines, questions of justice already arise in the context of national vaccination strategies insofar as well-founded criteria are not only required for the establishment of the vaccination sequence, but also a decision must be made as to whether and to what extent applicable restrictions on vaccinated persons should be lifted should. Although the German Ethics Council, together with the STIKO and the Leopoldina, have formulated clear criteria for prioritizing vaccinations,²⁷⁵ So far, however, he has not explicitly committed himself to the fundamentals of justice and ethics Restoration of freedom rights for vaccinated people under the condition that they pose less risk of the virus spreading further.²⁷⁶ The ethical implications of an area or activity-specific or even general vaccination obligation, which has already been implemented in individual countries and is also being discussed more intensively in Germany because of the comparatively low vaccination rate due to the fourth wave with dramatic infection numbers, also require careful reflection. In its ad hoc recommendations, the German Ethics Council has issued "On compulsory vaccination against Covid-19 for employees with special professional responsibilities" and "Ethical orientation on the question

²⁷⁴BVerfG, decision of December 16, 2021, Az. 1 BvR 1541/20 (http://www.bverfg.de/e/rs20211216_1bvr154120.html).

²⁸⁸ See also the ad hoc recommendation "Solidarity and Responsibility in the Corona Crisis" of March 27, 2020, whose not undisputed statements on how to deal with dilemmatic decision-making situations prompted the German Ethics Council to raise the issue of triage on March 24 To be discussed intensively again in 2021 as part of a bioethics forum (<https://www.ethikrat.org/forum-bioethik/triage-priorisierungs-intensivmediziner-RESOURCES-unterpandemiebedingungen> [03/09/2022]).

²⁷⁵ Standing Vaccination Commission/German Ethics Council/National Academy of Sciences Leopoldina 2020, 3.

²⁷⁶ The ad hoc recommendation "Special rules for vaccinated people?" from 04.02. In 2021, this topic is still being ignored due to the insufficient level of knowledge about the infectivity of vaccinated people at the time.

See.

of a general legal obligation to vaccinate"²⁷⁷²⁷⁸initial considerations on these questions are presented with explicit reference to basic ethical criteria and in particular to aspects of justice (cf. Section 2.2.6).

The vaccination issue in particular shows that questions of distributive justice cannot only be answered from a national perspective, but also have a European and global dimension and require corresponding efforts. Various aspects play a role in political decision-making on these questions:

From an ethical perspective, a universal approach to vaccine distribution is warranted if only because the reasons for persuasion are becoming more specific

Ceteris paribus, prioritization criteria should not be restricted geographically, but as

Reasons claim a universal plausibility. There is no moral justification for leaving particularly vulnerable groups without medical care simply because they live in countries of the Global South and thus distant from us, while at the same time giving scarce vaccines to those who are at a significantly lower relative risk of disease or death. The pandemic has shown that the rapid global spread of pathogens is closely related to the globalized economy and travel. The populations of the countries of the Global South, who benefit less from the globalized economy and travel, are just as or even more affected by the COVID-19 pandemic and its medical and social consequences.

From a legal perspective, on the other hand, it can be stated that the German state and its organs are constitutionally obliged to protect and protect the well-being of the German population.²⁷⁹In addition, Germany has international obligations to show solidarity with other countries in dealing with the pandemic and its consequences, for example from international treaties or from EU European law.

At the political level, there are other elements in addition to these normative considerations, in particular political obligations towards other states, including those of the Global South, other European or foreign policy considerations and, last but not least, the states' enlightened self-interest in combating the pandemic effectively. For example, fighting the pandemic is not the responsibility of the EU, but of its member states, so it is basically a matter of national politics. Nevertheless, after initial hesitation, they have coordinated their policies in many areas. In part, for example in the procurement of

vaccines and their distribution, the states of the EU also pursued a European approach at an early stage. In addition to the expectation that this would give better access to vaccines than would have been possible with a national approach, the notion of "European solidarity" and other political considerations played a role.

In order to successfully contain a pandemic, it is ultimately also in the well-understood self-interest of the states that a global approach is required, since otherwise new virus variants will always emerge that will sooner or later spread to all regions of the world and therefore also (again) affect

²⁷⁷This ad hoc recommendation was prepared at short notice at the request of the federal and state governments and was published on

²⁷⁸.12.2021 published.

²⁷⁹See, for example, the oath of office of the Federal President, the Federal Chancellor and the Federal Ministers (Art. 56, 64 para. 2 GG): "I swear that I will devote my energies to the welfare of the German people, increase their benefit, protect them from harm [...] become."

See.

those states that have been spared up to now remained or have (currently) successfully contained them (cf. section 2.1.4). In addition to the ethically, legally and/or politically required solidarity, it is therefore also in the interest of richer countries to make vaccines globally accessible and to participate in initiatives such as COVAX.

4.4.2 Eligibility

The ethical discussion of the last decades has shown that it is not enough simply reducing the issue of justice to the distribution of certain goods. Since people have a different personality as a result of a large number of different factors (from health conditions and social circumstances to geographical and climatic conditions), make use of goods, it is crucial to promote and develop the individual abilities of individuals as optimally as possible in order to achieve (opportunities) equality in this regard. Due to the central importance of the concept of ability not only for development policy goals, but also for analyzes of ethics of justice, one also speaks of empowerment justice.²⁸⁰The methodological and content-related relevance of this so-called capability approach for questions of pandemic management lies in the fact that these theoretical models do not focus on the design of an ideal, well-ordered society. Rather, they are comparatively oriented in the sense that they assess alternative strategies for action according to their overall consequences, whereby, in contrast to conventional consequentialist approaches, they not only assess the respective results using purely quantitative parameters, but also take procedural aspects into account.²⁸¹By building on this approach, important insights into contemporary political ethics can be gained - for example with regard to transparent communicative processes and low-threshold participation opportunities for those affected as

²⁸⁰See e.g. B. Dabrock 2012.

²⁸¹Sen 2009.

necessary prerequisites for a broad acceptance of decisions - for the Make justice discourse fruitful. Especially in the light of the above considerations on vulnerability and resilience, an orientation towards certain basic skills should be appropriate - above all the basic ability of people, institutions and systems to act²⁸²– also prove helpful for a retrospective assessment of the various measures taken to contain the pandemic. The strengths and weaknesses of the material and procedural strategies tested by different countries can only be adequately assessed on the basis of a differentiated analysis of their empirically verifiable results.

4.5 solidarity

The COVID-19 pandemic has a surprisingly high spread across the population Solidarity made evident.²⁸³The fact that certain groups have repeatedly protested against individual infection control measures, which they consider to be an unreasonably high burden, does not contradict this assessment overall. On the contrary, such protests rightly draw attention to the fact that solidarity cannot be demanded indefinitely and - as the German Ethics Council pointed out at the beginning of the pandemic - "Benefits and burdens [...] are distributed fairly and fairly in the long term".²⁸⁴should be.

Solidarity consists in the willingness, at least temporarily, to set aside one's own claims, which a person or a group of people is entitled to from the point of view of justice, in favor of others. Such attitudes, dispositions and actions as well as institutional and contractual regulations are described as solidarity that serve to "support others, or at least [...] to express an inclination to want to help and support".²⁸⁵It is essential for such willingness to help that it "costs" those who are willing to help – be it financially, emotionally, in terms of time or by taking an otherwise avoidable personal risk. Solidarity can be seen, for example, in the context of vaccination prioritization, when less threatened population groups (have to) take a back seat in order to give priority to more threatened population groups to benefit from vaccination protection. Such unequal treatment is not only compatible with the principles of justice, but may even be necessary: an unequal risk situation fundamentally justifies unequal care. Nevertheless, it is unreasonable to expect less threatened population groups to refrain from enforcing their own right to health protection,²⁸⁶

With regard to the ethical considerations of interests that are necessary in times of a pandemic, a distinction must be made between solidarity that people exercise voluntarily of their own accord, so that they themselves determine the extent and possible time limit, and that solidarity to which people or whole populations are obliged by state decisions. Voluntary solidarity is often one of the so-called supererogatory services that go beyond the usual moral obligations and cannot be

²⁸²See Bormann 2021b.

²⁸³Like the ethical understanding of justice, the criterion of solidarity is very heterogeneous History of the term and is not used uniformly in the various specialist disciplines or in public. For a detailed overview of the genesis of the term and competing concepts of solidarity, see Prainsack/Buyx 2016.

²⁸⁴German Ethics Council 2020a, 5th

²⁸⁵Bayertz 1996, 308.

²⁸⁶Standing Vaccination Commission/German Ethics Council/National Academy of Sciences Leopoldina 2020, 2. See.

demand of anyone. Anyone who practices solidarity in this sense does not usually associate it with the expectation of a similar service in return, should he or she need such support himself. This is different in the case of state-imposed compulsory solidarity. Willingness, to exercise such solidarity not only for reasons of compulsion, but also to practice it out of inner conviction, thrives on an expectation of reciprocity – that is, the expectation that, in the event of one's own need, one can count on a reverse solidarity support service. This expectation of reciprocity, which is ideally reinforced by a reciprocity guarantee from the side demanding solidarity, forms the normative core of many areas of the system of social security systems such as health insurance, long-term care insurance, statutory that in the event of personal need, a reverse solidarity support service can be expected. This expectation of reciprocity, which is ideally reinforced by a reciprocity guarantee from the side demanding solidarity, forms the normative core of many areas of the system of social security systems such as health insurance, long-term care insurance, statutory that in the event of personal need, a reverse solidarity support service can be expected. This expectation of reciprocity, which is ideally reinforced by a reciprocity guarantee from the side demanding solidarity, forms the normative core of many areas of the system of social security systems such as health insurance, long-term care insurance, statutory Accident insurance, but also other systems of solidary protection against the occurrence of Cases of damage, the compensation of which could overwhelm the individual.²⁸⁷

In a pandemic, solidarity in the form of state-imposed solidarity obligations plays an essential role. This means that those who are subject to these obligations can expect that their willingness to show solidarity will not be unduly strained. The burdens that are imposed on certain persons (groups) in favor of others must be reasonably and, as far as possible, justly and fairly distributed on the “shoulders” of the persons (groups) in question. This also distinguishes compulsory solidarity from a voluntary practice of solidarity. Altruistically motivated people may hardly or not at all make their willingness to show solidarity voluntarily dependent on whether others could also help – they orientate themselves towards the acute need for support of their counterpart. On the other hand, the acceptance of Compulsory solidarity to the extent that burdens are distributed unilaterally, especially if this is not at least partially compensated for by appropriate measures. It should be noted that in such cases not only the acceptance but also the moral legitimacy of solidarity as a (government-imposed) obligation. In contrast to voluntary solidarity, the compulsory solidarity has an element of justice. The obligation to assume benefits and to defer one's own claims in favor of others is only justified where the beneficiaries do not benefit disproportionately and where the costs are distributed appropriately and in line with the performance. The legitimacy of compulsory solidarity thus depends to a large extent on the “benefits” (e.g. the protective effects for the beneficiaries) and the “costs” (e.g. the social, economic, cultural, health-related, etc. potential for damage) as far as possible validly determined and made transparent. Only on this basis can the required solidarity obligations be explained to those affected in a plausible manner.

²⁸⁷also detailed German Ethics Council 2017, 227-230.

4.6 trust

Whether they are obliged to show solidarity through different pandemic protection measures People (groups) who see their burdens as plausible and justified also depend to a large extent on whether they respect the institutions that decide on such obligations (parliament, administrations) or on the basis of whose knowledge such decisions are made (science), trust. Because it is almost impossible for them to assess the complicated facts to which infection protection measures relate, as well as their consequences and side effects, which are difficult to calculate both in terms of reason and extent. Trust proves to be the necessary disposition here in particular, with the help of which the individual person can reduce the complexity of social (here: pandemic-related) issues in such a way that they remain capable of acting and making judgments themselves.²⁸⁸

4.6.1 Trust as a moral good

For this reason alone, trust is a high moral good, which in ethical weighing goods plays an important role.²⁸⁹This is all the more true as false trust can lull people into a false sense of security. Trust in a person or institution is justified above all when their information, statements and assessments repeatedly prove to be correct or stand up to critical scrutiny. The COVID-19 pandemic has shown how people act and react when they no longer trust relevant institutions and a crisis of trust takes hold. Especially in times of great uncertainty and uncertainty about the further course of the pandemic and its consequences is of great importance. Trust makes it possible to rely on the assessments, decisions and actions of others in situations of uncertainty without sacrificing one's own sense of security. Trust strengthens the productive handling of ambivalences and crises. If there is a lack of trust in the people who make decisions and are responsible for them, or if there is a lack of trust in the institutions that people depend on during the pandemic, or if the trust placed in them is disappointed and violated, the uncertainties multiply. Disappointed trust, as well as a distribution of the burden of fighting a pandemic that is perceived as unfair (cf. Section 4.5), can lead to

Trust can be described as a basic relationship in which a person (group) relies on another person (group) or an institution to regulate or guarantee a specific matter that is important to the trusting person.²⁹⁰Trust thus describes a relationship between at least two actors in relation to a fact or an action.²⁹¹In this way, trust becomes a moral practice that goes beyond a psychologically relevant, pre-linguistic basic human disposition.³⁰⁵ Because the trusting person binds the person (or

²⁸⁸See Luhmann 2000.

²⁸⁹See also Simon 2020.

²⁹⁰In order to speak of trust, the assumption of the entrusted action in ethics is usually followed by further ones conditions coupled. In her seminal essay "Trust and Antitrust", Annette Baier addresses this as goodwill towards the person trusting and his or her concerns (cf. Baier 1986).

²⁹¹Self-confidence is a special case here, since one person combines both actor roles (cf. Foley 2020). ³⁰⁵ See Baier (1986, 260): "Trust is a fragile plant, which may not endure inspection of its roots, even when they were, before the inspection, quite healthy."

See.

institution) “of their trust” into a relationship that obliges the trusting person or institution to be trustworthy. This means that the person must either not disappoint the trust placed in him or must expressly reject the leap of faith that has been shown if he feels unwilling and/or unable to guarantee for whatever reason.²⁹²

Trust is irreplaceable for a successful life. However, the trust placed in us can be disappointed, abused and violated. This is an aspect of everyone's vulnerability
People. Trust and vulnerability are therefore related: in the act of trust we become vulnerable and hope that those we trust will not abuse this trust.²⁹³ It is therefore of equal theoretical and practical relevance to trust those and only those who are worthy of our trust. Identifying trustworthy actors is a crucial prerequisite for justified trust. However, the reliable assessment of trustworthiness is anything but trivial, since we have to assess those we trust both epistemically and morally.²⁹⁴ The question is whether actors and institutions are sufficiently competent and appropriately motivated to fulfill the trust placed in them.

Once trust has been shaken or violated, it is difficult to rebuild, win back or re-stabilize. This applies to trust in people as well as in systems, institutions or organizations. Both sides of the relationship of trust are required if, especially in times of uncertainty and crisis, we are to succeed in overcoming challenges together in a spirit of trust. If you want to gain trust or not lose it, you have to be critical with comprehensive and reliable information
decisions create a basis of trust. Information that turns out to be incorrect or incomplete can forfeit trust and trigger a crisis of trust. On the other hand, those who depend on trust, particularly in situations of dependency or pressure to make decisions, do well to beware of the danger of naïve or blind trust. A certain degree of distrust about shared information and reasons for making decisions is essential for a sustainable relationship of trust.

In the following, a distinction is made between personal and institutional trust. personal
Trust includes the dimensions of self-confidence and trust in others that individuals in crises rely on and depend on. Institutional trust, on the other hand, refers to trust in institutions and in institutional processes. The most important ones
Institutions during a pandemic include politics, the media and the
healthcare²⁹⁵ especially science²⁹⁶ in general and medical research in particular. The perspective of science is therefore presented separately in a third point.

²⁹²See Hartmann 2011; Wieseman 2016.

²⁹³See Wiesemann 2016; Hartman 2020.

²⁹⁴See O'Neill 2020; Scheme 2020.

²⁹⁵See Nickel/Frank 2020.

²⁹⁶Rolin 2020.

4.6.2 personal trust

In situations of uncertainty, such as those presented by pandemics, many stand out as trusted persons with specific knowledge and expertise. This applies to people working in healthcare, for example. In crisis situations such as pandemics, however, government decision-makers who are expected to work for the well-being, security, health and fundamental rights of the people are particularly dependent on trust. In such a situation, when confidants betray the trust placed in them, this backfires on acceptance of measures they recommend or prescribe. In addition, their recognition as a person of trust is eroding. This can be the case, for example, if the affected persons (groups) are not involved in decisions about protective measures.

However, relationships of trust can also be jeopardized by the fact that, for example, contact restrictions prevent encounters between social work professionals and the children and young people they accompany over a longer period of time.

Self-confidence forms a separate category of personal trust. During the Corona crisis, for example, many employees in long-term care had their confidence in their own professional expertise shaken by the numerous restrictions and legal frameworks in the context of hygiene management and everyday management. It is extremely important that those affected regain confidence in their own ability to make professional decisions in the wake of the pandemic. Professional confidence is fundamental to instilling trustworthiness in social interactions. Because it is a crucial one, it represents a resource of competent health care, facility managers should be able to promote recovery through appropriate support offers.

4.6.3 trust in institutions

Trust in institutions is based on people confronted with them having the impression that they can rely on the skills and goodwill of those working in the institutions. The protection against infection, which was practiced during the COVID-19 pandemic in long-term care facilities as well as in integration assistance and social psychiatry, often pushed the nursing and psychosocial measures into the background, which are essential for quality of life, privacy, social participation, freedom of choice and self-determination as well as are of decisive importance for the physical and psychological integrity of those cared for in these institutions.²⁹⁷In particular, the high mortality and the circumstances of death among older residents

Residents of inpatient long-term care facilities (see Section 2.3.1) and the restricted reliability in institutional care offers such as day care centers and schools have that confidence in the social, health and education system shaken.

In order to (re)gain trust in an institution, it requires people working in it who convey (new) trust in the institution. Institutional is often based on personal trust. On the other hand, during a pandemic, personal confidence in safety and

²⁹⁷See German Ethics Council 2020b.
See.

+++ preliminary draft! Will be replaced by the edited version. +++

the stability of the institution and on trust in the institution. If, for example, it is not possible due to a lack of personal resources, in day-care centers, schools and Health care facilities to fully meet the requirements of infection protection, the people working there can hardly trust the institutions. Despite its eminent importance for institutional trust, relying solely on personal trust does not go far enough. Rather, politicians and cost bearers are required to strengthen the crisis security of institutions and thus to ensure the corresponding confidence-building and securing framework conditions.

4.6.4 trust in science

In the course of the pandemic, scientists - in particular Virologists - with their professional expertise in politics and the public special attention. In a way that was unusual up to then, many people active in politics referred to scientific findings and occasionally presented political decisions as mere ones Translation of a scientifically proven factual situation into measures or regulations. In doing so, they increased - possibly unconsciously - the expectation of science to generate ultimately binding and irrefutable truths about the various aspects of the pandemic and to make them available to politicians and the public. It is true that such expectations are quite understandable in view of the confusing nature of the pandemic, which is threatening and overwhelming for large parts of the population. However, the scientific community could not and cannot live up to these expectations, because empirical knowledge is fundamentally provisional and fallible. It arises in a constant process of forming hypotheses, which are confirmed or refuted under constant criticism from the scientific community. A visible sign of such scientifically inherent review practices is the fact that empirical studies in particular are generally only published in relevant specialist journals when they have successfully passed an extensive peer review process.

The recognition of the preliminary nature of scientific knowledge and the willingness to put all premises and knowledge to the test again at any time is a virtue of science. Admittedly, this epistemic virtue is sometimes perceived by the public as a weakness that can quickly shake confidence in science. In this respect, the

The scientific community must do everything possible to repeatedly emphasize its own logic and make it plausible. It is part of the credibility and trustworthiness of scientific experts that on the one hand they reflect the current state of research, on the other hand they always make its provisional nature and limits unmistakably explicit to those responsible for politics and administration and the public. This is an important part of scientific honesty or honesty. In addition, scientists who make public statements in political contexts must clearly indicate whether they are speaking about a particular aspect as scientists or as citizens. If they express themselves as the latter, this does not detract from the latter importance of their statement. Nonetheless, their utterance cannot be scientifically authoritative use expertise.

Science must be free and independent. Any (party) political appropriation or influence is to be rejected. The occasionally observable public pressure on scientific advisory bodies damages trust in science's efforts to achieve factual objectivity. Conversely, academics must respect the logic and personal responsibility of decision-makers in the political sphere. In a democratic society governed

by the rule of law, ultimate responsibility for political decisions rests with the democratically elected sovereign: the parliaments.

4.7 responsibility

As has been explained in detail, trust is just as indispensable for the successful lifestyle of the individual as well as for the functioning of entire societies. trust in Both people and institutions create that degree of objectively given and subjectively felt reliability that is essential for guaranteeing or realizing freedom - freedom understood not least as freedom from want and insecurity and thus as freedom to shape one's own successful life. Insofar as trust is a high moral good, everyone has a moral duty, especially in times of the pandemic, to deal responsibly with this fragile good and to give it a high priority in the weighing of goods.

Responsibility is understood as a (at least) three-digit relation between a Responsible subject (individual, collective actors, state organs, etc.), an object of Responsibility (actions, decisions, laws, regulations, etc.) as well as one Responsible authority (participating or specifically affected persons, groups, Institutions, current or future generations, etc.; classic but also personal conscience, law, God) towards whom the subject responsible for his actions, decisions, decree, etc., or by whom it is held responsible.²⁹⁸

In the context of pandemics, the attribution, acceptance, and perception of responsibility are diverse and complex. Responsibilities arise at different levels and are attributed to differently structured actors with specific roles: at the micro level, for example, in the direct interaction between individuals within a facility; at the meso level, for example, in the actions of facility managers, who set the framework for assuming responsibility on the Form micro level and pre-structure it; and at the macro level, for example, by actors in the political sphere who exert significant influence on actors at the micro and meso levels through legislation. This hierarchy particularly affects the ability to Being able to actually fulfill responsibilities at a lower level. This The interlocking of different levels and role-specific responsibilities takes hold of the concept of "multi-actor responsibility"²⁹⁹on.

The easiest way is to determine a personal responsibility that each member of a Society takes over by complying with state-mandated or voluntarily adopted protective measures to ward off immediate health risks for itself and, above all, for others. But morally relevant mixed forms of personal responsibility are already evident here: Compliance with the elementary AHA-L rules (physical distance, hygiene, everyday life with a mask, ventilation) can be prescribed and controlled

²⁹⁸In other factual contexts, a more differentiated concept of responsibility is more appropriate, which knows further relations of responsibility. Since the present statement concentrates on determining the responsible subject, the basic relation of subject, object and instance appears to be sufficient.

²⁹⁹See German Ethics Council 2017, 249 f.; 2018, 86 f.

by the state in certain parts of public life. Individuals may have to answer to state bodies for non-compliance with mandatory requirements. However, in the face of deliberate or unavoidable control deficits, it is not sufficient for infection control purposes if standards are followed only out of fear of sanctions.

Woe to follow one's own life and that of others. The instance of responsibility is then not the "authority", but one's own conscience or the other people specifically affected by one's own actions.

In addition to the level of personal responsibility, in the context of a pandemic, the level of state or corporate responsibility is very significant. For example, the complex and profound way in which infection protection ordinances intervene in the everyday lives of millions of people and sometimes radically change their living conditions can probably only be adequately captured with the already mentioned concept of "multi-actor responsibility". Only an understanding of the various relevant levels of responsibility and their mutual interlocking enables a basic problem of attribution of responsibility, which is aggravated during a pandemic, to be dealt with appropriately: the diffusion of responsibility. One

Diffusion of Responsibility³⁰⁰ threatens, for example, when the object of responsibility can hardly be overlooked. Responsibility does not only extend to the immediate consequences of actions, decisions or regulations, but also to their long-term consequences and all (unintended) side effects. However, these are often neither reliably identifiable retrospectively nor predictable in advance.³⁰¹ Despite a fundamental feeling of responsibility, many subjects of responsibility - individual as well as collective - experience themselves as powerless and consequently reject concrete responsibility. The concept of a

Multi-stakeholder responsibility can counteract the danger of a crippling diffusion of responsibility and

Irresponsibility through a precise description of decisions and

Opportunities to influence at least open perspectives on role-specific responsibilities and areas of responsibility.

With the help of the concept of multi-actor responsibility, it is possible to determine in a differentiated manner who is responsible for what and at what level. When analyzing such Attribution of responsibility, the principle of subsidiarity is of considerable ethical relevance. It stipulates that only that which cannot be satisfactorily regulated at lower levels should be regulated at higher decision-making levels. This applies to all measures and regulations that apply uniformly for the sake of equal rights for all those affected and must therefore be taken at a higher level at the political macro level. This principle avoids unduly restricting the decision-making powers of those responsible at lower levels and especially at the micro level of individual relationships and interactions.

³⁰⁰Nunner-Winkler 1993, 1190.

³⁰¹For these temporal references, see also Heidbrink 2017.

5 Weighing goods in a pandemic

Overall, government practice in dealing with a pandemic must be as coherent as possible. Even if the conditions for fighting a pandemic are constantly changing, new virus variants with altered characteristics appear, vaccines and drugs are being developed and measures have a different effect than expected, care must be taken to ensure that the normative criteria that guide government evaluations of interests remain diachronic and synchronously coherent. This means that they are coherent and well founded in their entirety. Ethics and jurisprudence are the two normative guiding disciplines for this topic.

Contemporary philosophical ethics assesses the coherence of a practice in relation to the underlying paradigms. For example, theories of consequentialist (consequence-oriented) ethics require coherent practice to choose the optimal means to achieve the goals pursued or to optimize the consequences. In the case of several goals, this assessment presupposes that there is a common evaluation measure (in the case of utilitarianism: usefulness) that weights the respective goal achievement or subordinates the different goals to an overarching goal. In consequentialist conceptions, the sum of the life extensions achieved through preventive, diagnostic and therapeutic measures as a suitable measure of the consequences of medical practice. Utilitarian variants of ethical consequentialism introduce life extension weighting factors that take individuals' well-being into account.

Although theories of deontological ethics also take into account the effectiveness of measures, they do not require a uniform measure of evaluation for different goals, and they are not exclusively based on the consequences of the measures for the achievement of the goal. They reject measures that would be effective but result in an inadmissible restriction of individual freedoms or an unfair distribution of the burden of infection control measures (deontological limitation of optimization). Pluralistic deontological theories take into account a variety of normative criteria for individual rights and justice. Unlike monistic theories, which – such as the conceptions of morality in the tradition of Immanuel Kant – trace these criteria back to a single principle, they usually recognize that that dilemma situations can arise. Pluralistic deontological conceptions therefore assume that several normative criteria can come into conflict, which in practice knows no clear resolution. Rules of precedence, such as prioritizing respect for individual rights (the first principle of justice in John Rawls' "A Theory of Justice") over questions of distribution (Rawls' so-called principle of difference), can ensure practical coherence in deontological moral theories. A practice that is guided by different deontological criteria must therefore also meet rationality standards that show them to be coherent. which does not have a clear resolution in practice. Rules of precedence, such as prioritizing respect for individual rights (the first principle of justice in John Rawls' "A Theory of Justice") over questions of distribution (Rawls' so-called principle of difference), can ensure practical coherence in deontological moral theories. A practice that is guided by different deontological criteria must therefore also meet rationality standards that show them to be coherent. which does not have a clear resolution in practice. Rules of precedence, such as prioritizing respect for individual rights (the first principle of justice in John Rawls' "A Theory of Justice") over questions of distribution (Rawls' so-called principle of difference), can ensure practical coherence in deontological moral theories. A practice that is guided by different deontological criteria must therefore also meet rationality standards that show them to be coherent.

In the legal system, the constitutional principle of proportionality serves to ensure practical coherence. This principle combines consequentialist (effectiveness of a measure) and deontological aspects of normative assessment (mildest encroachment on fundamental rights). There now follow some considerations on the importance of the constitutional principle of proportionality in the context of weighing interests under the conditions of a pandemic.

Subsequently, principles of moral considerations of interests are discussed, also with reference to pandemics. In 5.3 some conclusions are drawn for the normative assessment of pandemic control measures.

5.1 Proportionality as a constitutional principle for balancing interests

The principle of proportionality applies to pandemic regulation measures in the same way as to all other government measures.³⁰² Accordingly, they must pursue a constitutionally legitimate goal and be suitable, necessary and reasonable (reasonable) to achieve this goal³⁰³. "Suitable" means that the selected regulatory instrument must be able to promote the achievement of the regulatory objective. The word 'may' is important because it gives the state some leeway in determining how a regulatory objective it is pursuing can be achieved. "Necessary" means that there is no equally effective but milder means by which the regulatory objective could be achieved. Finally, the criterion of "reasonableness" is intended to prevent the state measure in question from excessively restricting fundamental rights. This is a matter of weighing up goods, which takes into account the weight of the regulatory goal being pursued on the one hand and the importance of the fundamental right in question in the specific context of application on the other hand and tries to bring both dimensions into a "practical concordance" (as the former judge of the Federal Constitutional Court Konrad Hesse used to say). gives both the greatest possible effective validity. This criterion acts as a kind of "last line of retrieval", which is intended to filter out regulatory excesses that have not yet been criticized in the previous stages.

In view of the dynamics and complexity of the situation and the great importance of the legal interests to be protected, the Federal Constitutional Court has granted the democratically legitimate legislature a wide range of measures, particularly in relation to measures to combat the COVID-19 pandemic

Freedom of assessment and design granted.³⁰⁴ This affects the level of suitability and Necessity as well as that of appropriateness - especially with regard to the latter However, the attitude of the Federal Constitutional Court also met with criticism.³⁰⁵

³⁰²The following remarks on proportionality in close accordance with Rixen 2021a, 209 f.; 2021b, 82 f.; 2021c, 1000.

³⁰³The protection of the essence of Article 19.2 of the Basic Law and Article 1.1 of the Basic Law also provide additional protection of legal interests, which is disputed in detail with regard to its scope, insofar as the human dignity core of the individual fundamental rights is concerned.

³⁰⁴BVerfG, decision of November 19, 2021 ("Federal Emergency Brake I"), Az. 1 BvR 781/21 and others, paras. 171, 185, 202, 204 f., 216 f.

(http://www.bverfg.de/e/rs20211119_1bvr078121.html); Resolution of November 19, 2021 ("Federal Emergency Brake II"), Ref.

³⁰⁵BvR 971/21 and others, paragraphs 114, 123, 135

(http://www.bverfg.de/e/rs20211119_1bvr097121.html). 319 Cf. Lepsius 2021.

However, speaking of proportionate restrictions only makes sense if fundamental rights can be restricted at all. In the legal sense, fundamental rights – with the important exception of human dignity (Article 1 Paragraph 1 of the Basic Law) – are not absolute values. Their level of protection can therefore very well be reduced, which of course must be justified, above all by considerations of proportionality. Understood in this way, fundamental rights are scalable, deontologically weak regulations that grant more or less protection. This is based on the idea that fundamental rights should primarily moderate and discipline state activity, but not stop it. At the same time, it is recognized that regulation - the concrete balancing of conflicting interests, that leads to the selection of certain control instruments - is not a mathematically precise task, but requires political freedom. From a constitutional point of view, there can be several equally “right” solutions, which may appear to have different political sensibilities, but are in any case equally constitutionally justifiable.

That things can be seen differently, for good reason or less good reason, is a hallmark of democracy. The binding of the legislature to fundamental rights (Article 1 Paragraph 3 of the Basic Law) is to a certain extent provided with a reservation motivated by democratic theory. To put it another way: the “effectiveness” of fundamental rights must “appear in the formal language of a democratic constitutional state”³⁰⁶. Democracy as such is not suspected of being potentially hostile to fundamental rights, but on the contrary it is a way of effectively enforcing fundamental rights without there always being just one “right” way that would be prescribed by constitutional law. This democratic-theoretically based understanding of the binding nature of fundamental rights, which is part of the program of the proportionality test, is not sufficiently recognized beyond legal discourses on fundamental rights.

But if the yardstick is justifiability and not an allegedly crystal-clear truth, then in dynamic crisis situations in which provisional decisions have to be made permanently, different measures are constitutionally permissible - without it being decided that they are politically clever. The more multipolar and complex the considerations are, the less precise the political result is constitutionally specified. Genuine ethical debates, which also take human rights seriously as ethical postulates, are particularly valuable and necessary in such balancing constellations (see 4.3).

This also applies, or even more so, when one considers that political decisions are typically made under conditions of uncertainty. Uncertainties regarding the underlying knowledge are not a specific characteristic of pandemic-related measures alone, but ultimately characterize all future-oriented and forecast-based decisions. This does not mean a comprehensive waiver of control. Rather, the Federal Constitutional Court refers to a number of procedural mechanisms in order to enable at least a limited review of the corresponding state action, including its actual basis.³⁰⁷

5.2 Principles of moral weighing of goods

Moral decision conflicts usually arise in situations in which different moral goods cannot be protected or realized at the same time or to the same extent. In view of the large number and heterogeneity of the relevant goods, the weighing of goods required in such conflict situations

³⁰⁶Kersten/Rixen 2021, 275.

³⁰⁷At a glance: Augsberg/Augsberg 2007.

requires not only clear criteria and rules, but also effective protection of that deontological core area of morality that eludes weighing. The spectrum of moral decision-making conflicts is considerable: it ranges from simple conflicts, in which the preferable good is immediately obvious, to real dilemmas, in which high goods compete with one another and often necessitate tragic decisions - tragic in that that the unavoidable damage is very significant in any case and can hardly be held responsible for in and of itself. Such decision conflicts are resolved in an ethically justifiable manner when a reasonably justified preferred choice is made within the framework of moral considerations.

Goods are weighed up at different levels and for different stakeholders. Each person first assesses on a micro level which goods are weighted and how in concrete decision-making situations. (This already applies to the decision as to which risks she is willing to take without further precautions and which not.) The management of inpatient facilities, such as long-term care or educational institutions, meet at one meso-level, within the framework of the discretionary powers provided by state laws and regulations, weigh up interests that affect not only those living or learning in such facilities but also those who work there. At the macro level of state and society, the weighing up of interests largely determines the decisions in political institutions that are responsible for this under the constitution or by law.

This Opinion deals primarily with the latter level. Especially in a pandemic crisis, however, every weighing of goods faces a fundamental problem: at least at the beginning, it is carried out under the condition of great uncertainty about the consequences and side effects of measures that not only unintentionally affect other goods, but can even damage the goods on which they are based. Protection the relevant measures were aimed. During the COVID-19 pandemic, public health protection was the focus of government action. The measures to be taken in each case justify themselves as a contribution to avoiding high mortality, long-term health impairments of significant parts of the population or the impending collapse of the health system.

Measures are increasingly rationally assessed with regard to their expected effects on the infection process. Only when the lethality in the sense of the infection fatality rate of an infectious disease is known with sufficient accuracy can the specific risks be compared with others. Health risks compared and thus side effects of measures for others health risks are assessed.

If, for example, it is necessary to prepare intensive care units for expected severe COVID-19 cases by keeping treatment places free, this has an impact in the form of postponed operations or the dismissal of less severe cases, which must be included in the overall assessment. Data from the National Health Service in Great Britain indicate that the number of cardiovascular diseases and deaths from heart attacks has increased during the COVID-19 pandemic. The ethical criterion from a health policy perspective is therefore not how effectively a measure counteracts a burden caused by a specific infectious disease, but what the overall health effects are.

In many cases, however, it is not possible to reliably estimate these health effects in all areas in advance, so that the decision-making situation is more like a decision under uncertainty than a decision under risk. A decision under uncertainty is understood to be a decision situation in which it is not possible to determine the probabilities of the possible effects, while a decision under risk characterizes a decision situation in which all relevant probabilities are known or can at least be

reliably estimated. However, there is a wide range of fluid transitions between these two extreme poles. In decisions under uncertainty, the maximin criterion is usually applied, aimed at minimizing the worst case damage. In the absence of available probabilities, one minimizes the greatest possible damage. In the case of a pure risk situation, the various possible (health) damages are weighted and aggregated with the probabilities with which these occur for a specific measure (more precisely: multiplied by the probabilities of occurrence and these individual terms are added to an expected damage) . In both cases, the aim is to reduce possible damage or reduce the risk as much as possible. In the case of a pure risk situation, the various possible (health) damages are weighted and aggregated with the probabilities with which these occur for a specific measure (more precisely: multiplied by the probabilities of occurrence and these individual terms are added to an expected damage) . In both cases, the aim is to reduce possible damage or reduce the risk as much as possible. In the case of a pure risk situation, the various possible (health) damages are weighted and aggregated with the probabilities with which these occur for a specific measure (more precisely: multiplied by the probabilities of occurrence and these individual terms are added to an expected damage) . In both cases, the aim is to reduce possible damage or reduce the risk as much as possible.

However, it should be borne in mind that the criterion of damage prevention in both extreme variants and in all mixed forms only includes possible damage and ignores positive consequences. As obvious as damage minimization is as a criterion for state decisions in pandemic emergencies, it must not be overlooked that the sole focus on damage without considering possible positive consequences, i.e. the benefit can lead to wrong decisions. In order to make well-founded ethical decisions, it is necessary to weigh the opportunities and risks against each other as a whole. of focusing on Underlying harm reduction is an implicit negative utilitarianism. It's so obvious in one In a crisis situation, wanting to prevent the worst, this focus runs the risk of not doing justice to the complexity of the decision-making situation. This is all the more true the longer a pandemic crisis lasts.

Decisions about risks, which are either to be reduced by the state in any case, or which may have to be accepted personally and socially, or which can be countered by individual risk prevention, always depend on subjective and intersubjective risk perceptions shared with others, as well as on the respective socially discursively negotiated and agreed risk acceptance . A distinction must be made between the individual and the state decision-making level. While individuals may also follow risk-taking decision-making rules and offset risks and opportunities for themselves over time, this does not apply to the state level insofar as the state must bring about a fair balance between the burdens on numerous people. While each person can decide to take disproportionate risks, the state does not have this option. A state that intervenes in individual liberties not to protect other people but solely to maximize the average life expectancy of the population would endanger the free order of democracy. Even if individual and social risk prevention influence each other, they do not automatically coincide. In principle, the primacy of personal provision applies. However, as long as individuals do not have suitable options available to protect themselves individually against an infectious disease and in particular against its severe or fatal course, collective and state provision is required in order to minimize the individual risk. However, as soon as the state community makes suitable instruments available, it is the personal responsibility of each person to use them to protect themselves from a danger and to reduce the corresponding risk.

In the context of a pandemic, the question arises under what conditions the threshold from personal responsibility to a state duty to protect is crossed. This threshold is crucial for the legitimacy of government measures to deal with the pandemic. The limits of personal responsibility with regard to risks from an infectious disease depend on the one hand on the danger to health and the type and speed of transmission. On the other hand, it plays a role for whom the virus is among which Prerequisites is particularly dangerous: If this only affects a certain part of the population, this has consequences for the ethical justification of measures taken by the state to counteract the dangers associated with the virus. The existence of effective and reasonable options for self-protection (e.g. through a nationwide offer of effective vaccines) is of particular importance.

The substantive objective of anti-pandemic measures arises from the fundamental duty of the state to protect the life and limb of its citizens. However, the state's duty to protect has limits. It is not possible to protect the population from all conceivable risks without disproportionately restricting civil liberties. From an ethical and legal perspective, state intervention in self-imposed risks should be kept to a minimum. Although our legal system tolerates various forms of self-harming behavior for the sake of human freedom, no one has the right to expose other people to unreasonable risks against their will. In addition to hardly measurable consequential costs for society as a whole, it is above all the risks imposed on other people which are ethically and legally unacceptable once they exceed a certain level of acceptability. This measure is difficult to determine in general terms, since the general social acceptance of mutually imposed risks varies greatly. This is exemplified by the normative standards set by administrative courts in

Approval procedures for large-scale plants are created. In the case of the peaceful use of nuclear energy, the one in a million probability of being killed by a so-called worst case scenario was judged to be ethically and politically acceptable.³⁰⁸ Below this threshold there is no right to oppose this imposition of a technical-economic risk, since this is well below the threshold of risks generally accepted in everyday practice. As such, the normative criterion of general life risk is too imprecise to offer reliable orientation in the fight against a pandemic.

Instead, the following general criteria can be named, which can be used to assess whether pandemic protection measures are justified: In the context of infectious diseases, what is important is the statistical distribution of morbidity and mortality as a result of a disease within the population. From the point of view of morbidity, the incidence of hospitalization and the Compulsory intensive care beds. The incidence of infection is of concern insofar as it gives an early indication of the expected hospitalization and intensive care bed occupancy. In addition, there are - in the order of their threat - long-term consequences with their currently only partially predictable quantitative and qualitative characteristics as well as the frequency of the occurrence of (Possibly only mild) symptoms. If these health risks from vaccinations, medication, immunization from previous infections or also as a result of the spread of new virus variants with higher infectivity but lower pathogenicity are below what society considers with regard to other viral diseases (e.g. the four previous coronavirus diseases, influenza) - so far and in the future - is willing to accept, serious infringements of freedom can no longer be justified. freedom-restricting

³⁰⁸See e.g. B. Society for Reactor Safety 1980.

Pandemic control measures such as lockdowns (if necessary only for the unvaccinated), school closures, restrictions on visits to healthcare facilities and travel restrictions as well as access restrictions would then no longer be legitimate.

Of course, weighing goods is not limited to weighing opportunities and risks or possible damage and possible advantages. The understanding of “goods” is to be broadly defined: in addition to basic goods such as life, self-efficacy, freedom, physical and psychological integrity and necessities such as food, clothing, housing and minimum material equipment, (fundamental) rights, skills and social relationships also count and rights of participation in goods of significant moral relevance. However, it is not the mere multitude of goods themselves that makes trade-offs difficult. Since the respective competing goods not only belong to different types or classes of goods, but can also be distributed among different numbers of people,

Different preferential rules are therefore proposed in the ethical debate. In addition to so-called rules of thumb such as “reversible before irreversible evil”, “short-term before long-term Evil” or “common good before particular interests” are primarily the preferential rule of (goods) fundamentality (“The more fundamental or higher-ranking good is to be preferred”) as well as the preferential rule of (goods) dignity (“The respectively more important good is to be preferred”) brought to bear.

The criterion of fundamentality (level of rank, principle) gives preference, for example, to the moral good of physical survival over the good of recreational leisure activities, for example, because being alive is an indispensable prerequisite for any personal leisure activity. Similarly, the protection of a communal housing unit will be given preference over the individual freedom of movement of those living in it because these people desire their freedom of movement because of their special needs. Living conditions are absolutely dependent on the functionality of a community facility.

How difficult even such prima facie simple preferential decisions according to the principle of can become fundamental, but is shown by the fact that the damage caused as a result of neglecting a subordinate good can be so massive that it boomerangs back on the more fundamental good: the loss of recreational leisure activities or individual freedom of movement can be permanent lead to damage to health and functional losses. For example, the long-term social isolation of those living in long-term care facilities has contributed to a significant deterioration in their physical and psychological condition, which in some cases has led to earlier deaths.³⁰⁹(see sections 2.3.1, 2.3.2)

The preferential criterion of dignity (significance), for example, allows free personality development to be preferred to the absolute protection of (physical) life because the self-determined way of life represents a direct result of human dignity (“an end in itself”) and therefore appears more significant even when a person their self-determined lifestyle seriously jeopardizes their physical (survival) life. Human dignity is of supreme and absolute dignity. It is the good that cannot be weighed against other goods.³¹⁰Similarly, people may feel motivated to put their own lives at risk rather than deny

³⁰⁹See Peçanha et al. 2020; Simard/Volicer 2020. See also German Ethics Council 2020b.

³¹⁰With the exception in particular of the guarantee of human dignity, the fundamental rights of the Basic Law do not as a rule grant absolute protection. At the beginning of the pandemic crisis, the President of the Bundestag, Wolfgang Schäuble, explained in a much-discussed interview for the Tagesspiegel (April 26, 2020, p. 3) that life is not the highest of all goods and can and must be weighed against other legal interests: “If I hear, everything else has to take a back seat to the

others much-needed protection. The good of solidary support of others is weighted here as more important than the protection of one's own well-being - although one's own well-being is a condition of the possibility of acting in solidarity with others and thus in a certain way represents the more fundamental good.

As the examples mentioned suggest, it is often difficult to weigh up interests in decision-making conflicts whose consequences and side-effects only affect the weighing and deciding person himself. Considerably more complex and normatively more demanding are the weighing of goods, the consequences and side effects of which affect large groups or entire societies. But that is regularly the case in pandemic crises. The ethical consideration criteria discussed in this statement primarily concern decisions in the public sphere, i.e. in the responsible political institutions, and less so in the private sphere. Since the ideas about what goods are to be regarded as more fundamental or more important vary considerably, it is crucial, especially in political decision-making processes, not to narrow the space for public deliberation through unrealistic demands for consensus or impermissible preconditions (material or epistemic). Rather, what is needed is a broader understanding of "public reason" that allows for the inclusion of common ideas and thus significantly improves the stability of the decisions that are ultimately made.³¹¹ Admittedly, the orientation towards the ranking of basic needs, of essential services and essential relationships or of essential capabilities can facilitate a certain objective or at least intersubjectively shared assessment between all those affected.

protection of life, then I have to say: That is not correct in this absolute sense." [...] "If there is any absolute value in our Basic Law, then it is human dignity. It is untouchable," explained Schäuble. "But it doesn't rule out that we have to die." The philosopher Jürgen Habermas contradicted this with the argument that that without life everything else is nothing and that the state has a supreme duty to protect the life of its citizens (cf. the published correspondence between Jürgen Habermas and the criminal lawyer Klaus Günther in *Die Zeit* of May 7th, 2020, pp. 43-44; cf. also Habermas 2021). In fact, we each individually weigh life risks against other goals and values, consciously or in the form of our choices of action, and the state must not make the protection of life absolute compared to all other legal interests. It is undisputed, however, that the equal protection of every individual human life is a valuable asset and that the state has the task of protecting this asset within the scope of its legal and institutional possibilities (cf. Nida-Rümelin 2005). the published exchange of letters between Jürgen Habermas and the criminal lawyer Klaus Günther in *Die Zeit* of May 7, 2020, pp. 43-44; see also Habermas 2021). In fact, we each individually weigh life risks against other goals and values, consciously or in the form of our choices of action, and the state must not make the protection of life absolute compared to all other legal interests. It is undisputed, however, that the equal protection of every individual human life is a valuable asset and that the state has the task of protecting this asset within the scope of its legal and institutional possibilities (cf. Nida-Rümelin 2005). the published exchange of letters between Jürgen Habermas and the criminal lawyer Klaus Günther in *Die Zeit* of May 7, 2020, pp. 43-44; see also Habermas 2021). In fact, we each individually weigh life risks against other goals and values, consciously or in the form of our choices of action, and the state must not make the protection of life absolute compared to all other legal interests. It is undisputed, however, that the equal protection of every individual human life is a valuable asset and that the state has the task of protecting this asset within the scope of its legal and institutional possibilities (cf. Nida-Rümelin 2005). In fact, we each individually weigh life risks against other goals and values, consciously or in the form of our choices of action, and the state must not make the protection of life absolute compared to all other legal interests. It is undisputed, however, that the equal protection of every individual human life is a valuable asset and that the state has the task of protecting this asset within the scope of its legal and institutional possibilities (cf. Nida-Rümelin 2005). In fact, we each individually weigh life risks against other goals and values, consciously or in the form of our choices of action, and the state must not make the protection of life absolute compared to all other legal interests. It is undisputed, however, that the equal protection of every individual human life is a valuable asset and that the state has the task of protecting this asset within the scope of its legal and institutional possibilities (cf. Nida-Rümelin 2005).

³¹¹See Gaus 1996; 2011; 2016

Nonetheless, these rankings or claims of importance are too open and too controversial to be able to replace the broadest possible participation of as many affected people as possible.

For the principles of risk governance briefly outlined here, integration into the civil society sphere of public deliberation is of more than just strategic interest. Because the necessary, reflective and communicative judgment formation cannot be guaranteed by the state alone; nor should it be limited to the (necessarily selective) exchange with scientific representatives. Instead, specific procedures for the exchange of information and arguments that are as comprehensive as possible should be provided for. First of all, this calls for elaborate risk communication³¹², but goes beyond that: Because the underlying question of the acceptability of (residual) risks cannot be answered by the administration alone, but has to be negotiated by society, a risk discourse is required for the corresponding (evaluation) that includes a large number of by private and state actors and is appropriately designed for this purpose.³¹³ Against this background, the above comparison of coping with the corona virus with the previous social handling of other infectious diseases only has a binding effect insofar as this also exists subject to a future general risk acceptance with regard to these dangers. The way we deal with the flu, for example, may also change in the future – both in terms of stronger and weaker risk prevention of a personal and state nature. However, a reassessment of how to deal with risks should not take place in the context of a current crisis situation.

The fundamental need for joint deliberation points to the need for orderly and transparent procedures in which larger-scale weighing of interests – and this is regularly the case when dealing with pandemics – can take place and be legitimized. When society is confronted with such difficult issues, the time has come for political opinion-forming and decision-making. These considerations cannot be delegated to science. They are a matter for the population and their representatives in the parliaments. It has already been pointed out above (cf. Section 2.6) that the widespread shift in decision-making away from the legislature to the executive branches of the federal and state governments during the COVID-19 pandemic is to be regarded as problematic. Even if such a shift may be unavoidable in an emergency situation at the beginning of a dynamic pandemic crisis, it must not become a permanent state mode become decision-making.

The complex comparison of different standards of value in a pandemic crisis is of central importance for overcoming the emergency itself and for avoiding any resulting threat to democracy. Therefore, in future crisis scenarios, great importance should be attached to the fact that the parliaments retain their central role in existential questions, that the public is involved at all times and that the Distribution of competences between the federal and state governments is retained. The experience of the COVID-19 pandemic speaks for all the need for improvement in coordination, organization and However, the determination of jurisdiction does not ensure that the federal order of the Federal Republic Germany fundamentally opposes the good management of a pandemic emergency.

Public discourse in a democratic polity should be broadly inclusive

³¹²See Ladeur 2010; Pitschas 1996, 187 ff., 193 ff.

³¹³See already Pitschas 2012, para. 183 with reference to this risk-political participation relationship.

Orient the idea of the public use of reason in order to pull the ground out of ideologically motivated bans on thinking and the exclusion of uncomfortable positions. What matters here is the ability to endure views that differ from one's own and to jointly explore the corridor of rational considerations in factual communication supported by respect and mutual recognition. The respectful and inclusive public discourse is neither compatible with hate messages and calls for violence nor with blanket questioning of the foundations of the democratic constitutional order. In particular, the deliberate dissemination of obvious untruths and conspiracy stories damages democratic opinion-forming.

For good reasons, the democratic order is based not only on processes of collective decision-making, but also on the guarantee of individual rights and freedoms. In principle, these are not up for grabs even in the crisis. Rather, they limit the range of permissible government measures, including those designed to protect public health. Restrictions on individual rights and freedoms must be proportionate and should be part of a coherent overall strategy guided by comprehensible normative criteria.

5.3 Conclusions for the normative assessment of pandemic measures

5.3.1 ways out of the crisis

As early as the end of March 2020, the German Ethics Council called for explanations to be given to the public as to how and under what conditions, after a phase of intensive infection control measures, paths can be taken back to a state of “normality” (“opening prospects”).³¹⁴ It was not foreseeable at the time that the pandemic would last longer than two years. A comprehensive analysis of pandemic policy has only just begun, but if it is to be fruitful, it must already take future scenarios into account. The crisis has changed this society. The post-pandemic situation will therefore not be a mere return to the pre-pandemic period. Instead, it should be shown under which conditions the permanent crisis mode can be exited by structuring persistently present risks in such a way that social consequential damage is minimized. In the transition to the endemic phase, ethical questions arise. Answering them requires clarity and transparency. Pointing out the polarity of vulnerability and resilience should also be relevant for future, presumably different crises offer an important orientation. However, the stated basic vulnerability of all must not obscure the sometimes significantly different distribution of risk and burden in the crisis. For this reason, too, the reference to particular vulnerabilities or other factual differences should not be hastily classified as inadmissible discrimination, but primarily as an indicator of necessary differentiations are understood. In addition, there needs to be a clearly justified combination of objectives, measures (or their withdrawal) and consequences that goes beyond mere reference to the conventional legal proportionality test. The duration and very different intensity of the burdens and the long-term, already foreseeable consequences not only of the pandemic but also of the measures to combat the pandemic must be taken into account, as must the crisis of confidence in government, scientific and other institutions that is becoming increasingly evident and whose various

³¹⁴See German Ethics Council 2020a.

causes need to be clarified. The idea that the crisis is only over when the danger or security situation of the pre-COVID situation is restored,

5.3.2 Coping with and dealing with uncertainty

The prerequisite for this is to sensitize people to epistemic uncertainty. This has been happening at universities for a long time, including in the standard sciences. However, the Corona crisis has shown in an extremely aggravated form how little we were - and are - prepared for a situation of uncertainty that is not only specific to a specific area, but also relevant to society as a whole, despite all preliminary considerations. Uncertainty is something different than "not yet knowing", which could at some point be transferred to certainty. It is the acknowledgment of a contingency that is always tamed and designed, according to which everything could be different tomorrow and new "ignorance" always arises. Instead of illusory demands for Reliability of knowledge comes with the acceptance and processing of unavoidable knowledge deficits (coping with uncertainty). This special, epistemic vulnerability must be brought more into the public and political eye, especially since this is the only way to make and communicate the necessary considerations in a way that is plausible and acceptable to the broadest possible circle of the population. This includes the insight that fixed "master plans" are unrealistic, but that "driving on sight" without a clear basic strategic orientation and only reacting to acute dangers does not go far enough. Implementing this is not only an enormous communicative task. Among other things, it requires more detailed investigations in retrospect of this pandemic and comparison with the health care programs of other countries. Which uncertainties were unavoidable, which self-inflicted and which were based on insufficient or inappropriate efforts, for example with regard to the lack of meaningful data or reliable forecasts (foresight institutions)? How can the state and society be sufficiently and as comprehensively prepared as possible? This does not deny that some degree of ignorance is always inevitable. How high it remains is not fate, even in the crisis, but a challenge that can be influenced by appropriate efforts. organize the most comprehensive possible preparation of state and society? This does not deny that some degree of ignorance is always inevitable. How high it remains is not fate, even in the crisis, but a challenge that can be influenced by appropriate efforts. organize the most comprehensive possible preparation of state and society? This does not deny that some degree of ignorance is always inevitable. How high it remains is not fate, even in the crisis, but a challenge that can be influenced by appropriate efforts.

5.3.3 Establish risk acceptance as a discourse for society as a whole

The unavoidable proportion of uncertainty must also be evaluated normatively so that it does not have a paralyzing effect. It should be noted that, especially in phases of great uncertainty, public discourses are conducted with particular sensitivity to the possible consequences of measures. This The evaluation process is defined in a specific way by fundamental pre-determinations of the characterized by constitutional law. In addition, it requires social understanding about risk acceptance and also requires institutional support. Such negotiation processes on how to deal with specific risks must be conducted openly and with the broad inclusion of socially relevant positions. The media play an important role in this, which comes with a special responsibility. In public communication, any form of panic-mongering motivated by the economy of attention should be

avoided, as should trivializing and the all-clear without a valid reason. How we deal with risks directly affects them

Formation of the tense relationship between freedom and security in our Community. On this side of core areas of freedom that cannot be weighed up, this sets a continuous process of reflection and deliberation, which also takes into account what is or was usually accepted by society in a comparable context. At the same time, one should warn against problematic habituation effects, especially with regard to restrictions on freedom under the label of a "new normality": norms that are one-sidedly fixed on physical health should be critically questioned - especially by the state - in the sense of a broadening of perspectives. Instead of formulating absolute demands that are inappropriate both theoretically and practically, the protection of life and autonomy in particular should be brought into an appropriate balance. For this reason, the opportunities and dangers of precaution and prevention must be discussed openly and comprehensively. Prior protection of fundamental rights can quickly lead to exaggerated encroachments on fundamental rights.

5.3.4 Impairments of freedom as an exception requiring justification and explanation to understand

As the COVID-19 pandemic impressively illustrates, increased security efforts can massively impair both individual and group-related freedoms. Especially drastic and long-lasting measures must be subjected to strict justification requirements. Freedom is not a privilege granted by the state, but in principle a non-negotiable basis of the democratic constitutional state. For this reason, it is inappropriate, for example, to use language to devalue the return of freedom or to delay it even if preliminary decisions that you have made yourself have been fulfilled (e.g. hospitalization incidences) and/or are among comparable in an international comparison conditions another, also responsible trend emerges (e.g. when measures are withdrawn). Freedom does not have to be justified. Rather, the state that restricts freedom must clearly define and communicate which goals it is striving for and which means it is choosing, why and for how long - but also which options for action it is renouncing and for what reasons. The more and the longer freedom is restricted, the more transparent, comprehensible and plausible the reasons for the restrictions on freedom must be. in the course

The COVID-19 pandemic has revealed considerable deficits both in dealing with the burden of justification and in public communication - for example with regard to the too vaguely defined protected asset "public health". Legitimate questions about the continued maintenance of specific measures thus remain unanswered. The degree of uncertainty in the often difficult to calculate crisis dynamics is thus increased rather than reduced. This is where the link to risk perception closes: Restrictions on freedom, which largely exclude a large part of the population from public life, cannot be based on diffuse risks that could be largely avoided by milder, reasonable (self-protection) measures. When a acceptance of danger is no longer acceptable, it is not just a political option, but imperative to withdraw corresponding restrictions on freedom. This is particularly crucial for the beginning debate on the exit from the pandemic into an endemic situation, which is not only scientifically determinable but also needs to be shaped in a socially responsible manner.

5.3.5 Establish a self-critical error culture and restore trust

Knowledge, decisions and possible self-corrections in the pandemic are in a historical context and are subject to strong dynamics in the horizon of uncertainty. Therefore, the historical reconstruction of the course of the pandemic must not be followed by an unhistorical assessment.

One is always wiser afterwards, and in a crisis of world-historic proportions, mistakes and wrong decisions are inevitable. This applies to individual decisions at all levels of responsibility as for institutional processes. But this does not mean a license. Rather, it requires a critical review of crisis management in order to reveal personal misconduct, systemic flaws, dysfunctional forms of organization and/or unsuitable procedures and to enable corrections. A highly developed error culture is also an expression of resilience. This affects first and foremost the area of politics, but also, for example, science, media and political consulting. Internal criticism and mutual critical appraisal through perspectives from outside must complement each other. There is also a need for a debate on how the partly irreparable injuries caused by infection control measures can at least be made visible and how the unequal burden sharing can be compensated.

Even in the face of great uncertainty, democratic organizations and institutions must continue to make efforts to form democratic opinions in order to maintain trust and authority even under difficult conditions. This also includes resisting the longing for the one, allegedly only “rational” and therefore no alternative solution. That is why it is important to insist on the inescapable dispute between positions, to understand democratic pluralism of values and enduring difference not as a flaw but as a virtue, instead of avoiding political disputes by referring to a supposedly exclusively correct point of view. In modern democracy, the insight into the loss of stable certainties does not correspond to a material but to a procedural solution:

State institutions are not allowed to ward off criticism of their own actions across the board, but must accept them openly. Last but not least, it requires trust not only from the citizens Citizens in the state, but also vice versa. Maturity and self-efficacy are particularly in elementary in times of crisis. The high level of solidarity and the sometimes extremely creative support networks, even in times of considerable contact restrictions, show the social potential for participation and participation. The fact that in Germany the law was taken early on and that an increase in the use of sovereign power can be observed - for example in view of the increasing level of sanctions - raises questions not least with regard to the trust that the state places in its citizens. It should be the task of the post-corona period to address this relationship more thoroughly.

5.3.6 For staying together

In the course of the last two years, it has become apparent that different, sometimes conflicting risk assessments have been made in the population, sometimes due to the degree of concern, sometimes as a result of a divergent weighing of interests. The binary subdivision into “reasonable” and “unreasonable” falls short, as does the comparison of “timid” versus “freedom-loving” or “egoistic” versus “solidarity”. There are obviously differences not only in determining the objective risk situation, but also with regard to complex subjective factors and contextual ties. Researching these further is worthwhile in fragmented societies because they are partly responsible for moral attitudes. Some measures to deal with the pandemic have raised deep-rooted fears, whose common

background theme is the responsibility for physical integrity. The conflicts that arise lead to many tensions that are discharged in everyday life and can be dangerous for a community. Other differences and conflicts that have nothing to do with the pandemic are drawn into these disputes or threaten to disappear in the face of the all-dominant crisis issue.

Individuals are also responsible for peaceful coexistence in a democratic society. It is right and impertinence at the same time. This responsibility requires the democratic insight that the other person has subjectively plausible reasons for their attitude, but it is also permissible to have reasons that are difficult to understand externally or have no reasons at all, as long as this remains within the framework of the legal system and respectful cooperation. Anyone who opposes a particular policy or dissenting opinions must of course do so within the limits of the law. On the other hand, criticism is not only legitimate, it is necessary. The central responsibility for keeping the population in a coexistence in times of crisis thus falls to the state actors. Your task is to have an informative and balancing effect, to keep the elementary civil society spaces of democratic dispute as open as possible and to counter scapegoat narratives. Also and precisely because there will be a time after the pandemic in which we will be necessary in order to deal with the damage that has occurred, as far as possible and to repair it if necessary, the model of togetherness in difference is of crucial importance.

How well the state and the population communicate depends crucially on mediation. They are therefore not only responsible for accompanying social developments on a broad basis and, in particular, for critically questioning the exercise of state power. This side of concrete media law requirements (e.g. separation of report and comment, Balance) there is also the more general, democratically and ethically founded expectation of counteracting and compensating for one-sidedness. In a democracy - within the limits of freedom of expression - all relevant voices must have their say, both from those affected and from experts from different disciplines. Action that is sensitive to difference is only possible where plurality is audible and visible.

6 recommendations

The experiences with the COVID-19 pandemic described in the second chapter give reason to reflect on the protective measures taken with regard to their intended effect and target setting, but also their side effects, and to learn from them, because on the one hand we are dealing with SARS CoV-2 live and, on the other hand, have to reckon with the appearance of new viruses in the future. in the

In the following, the most important material individual aspects are to be mentioned which, from the point of view of the German Ethics Council, should be ethically taken into account when deciding on protective measures.

In a free democratic order, fighting a pandemic is a task in which individuals, (civil) society and the state from the municipal level through the federal states to the federal government must work together. If there are no effective and reasonable options for self-protection, which are subject to the self-responsibility of individuals and civil society, they can expect the state to protect them from pandemic-related dangers to life, health and other fundamentally relevant goods. The people with decision-making authority at all levels of society, from individual institutions or companies to the political sphere, have role-specific responsibilities that interlock with each other, depending on their area of responsibility

("Multi-actor responsibility"). In this interaction, the federal and state legislature is responsible for regulating the framework conditions under which the people themselves and, in the spirit of subsidiarity, other institutional actors act and take and implement the necessary protective measures. Governments and administrations are responsible for designing and implementing state protective measures.

Protective measures in a pandemic must first be suitable and necessary to protect people's lives and health. Furthermore, they must be proportionate in terms of the restriction of fundamental rights and damage to other important goods that accompany the protective measures. This makes it necessary to weigh up goods, in which the aspects listed below must be taken into account.

In general, the consequences of protective measures on other areas of life and in particular on other goods protected by fundamental rights must be kept as low as possible. You must not reverse the relationship between expected benefit and damage. And above all: protective measures must never damage the substance of the principle of human dignity.

1. Democratic legitimacy of protective measures

In a pandemic, a political decision must be made as to whether the protection options at the individual and (civil) societal level are sufficient and effective and which government measures should or even have to be taken. These political decisions must be made as farsightedly as possible, quickly and consistently if the situation escalates, scientifically informed, ethically reflected and democratically - in the case of essential questions by the federal and state parliaments - and taking into account the views of the people affected. In particular, social groups that are particularly affected by the pandemic or the measures taken to contain it and are underrepresented in public discussions should be actively involved. This is for all democratic challenges,

2. Obligation to generate knowledge

The weighing of interests necessary to justify protective measures requires extensive qualitative and quantitative empirical data from various scientific disciplines, which must be collected and interpreted. The scientific knowledge gained should increasingly provide information about the routes of infection and about which areas of society and under what conditions there are which risks of infection or disease and which measures can best be used to contain them. In addition, scientific knowledge is to be gained as to the consequences of protective measures for different population groups. Because these scientific findings are the prerequisite for a proportionate restriction of fundamental rights and the resolution or alleviation of dilemmas, there is a state obligation to ensure the accessibility, collection, consolidation and evaluation of the necessary knowledge and data base and to promote corresponding research projects. At the same time, data on the secondary health consequences (e.g. increased mortality from untreated or late treated cardiovascular diseases or oncological diseases, higher numbers of mental illnesses through to an increase in admissions under the Mental Illness Act) must be collected to get into the weighing of To ensure the merging and evaluation of the necessary knowledge and data basis and to promote corresponding research projects. At the same time, data on the secondary health consequences (e.g. increased mortality from untreated or late treated cardiovascular diseases or oncological diseases, higher numbers of mental illnesses through to an increase in admissions under the Mental Illness Act) must be collected to get into the weighing of to be able to incorporate benefit and harm. Research and data collection on the consequences of Pandemic and the measures to contain it for groups that are disproportionately affected by social inequality, precarious living conditions or discrimination must be carried out systematically in order to better protect (inherently and situationally) particularly vulnerable groups from health risks in the future and protect them from the damaging consequences of protective measures as well as to strengthen their resistance (resilience) in a targeted manner.

3. Embedding of protective measures in a time-spanning overall strategy

The restrictions on rights and freedoms should be as minimal as possible at all times. A start should therefore be made as early as possible on developing an overall strategy for controlling the pandemic over its entire duration in a manner appropriate to the point in time, while taking into account its long-term consequences and those of the protective measures. As soon as signs of an escalation of the pandemic situation or harmful consequences of protective measures become visible or scientific findings are available that require a change or adjustment, the overall strategy should be adjusted. Undifferentiated restrictions on freedom (especially in the form of a lockdown) should in any case be as short as possible and as consistent as necessary. For this reason, undifferentiated and generalized measures must be replaced by differentiated protective measures or eliminated entirely as soon as the incidence of infection, disease or hospitalization has reached a sufficiently low level or the possibility of effective and reasonable self-protection options has been

ensured. The people in this replaced by differentiated protective measures or omitted entirely. The people in this replaced by differentiated protective measures or omitted entirely. The people in this Countries can expect that the prerequisites for more effective and differentiated protective measures or for the end of restrictions on freedom will be actively created.

4. Respect for human dignity and protection of core human rights

In all measures to contain the pandemic, human dignity must be respected and the core of fundamental and human rights must be protected. First of all need timely effective measures are taken to prevent the spread of infection from spiraling out of control while disregarding human dignity. That's about the case when People are forced to walk alone, unaccompanied by loved ones or spiritual ones assistance to die. Respect for human dignity also requires, with the help of Protective measures Prevent situations in which triage decisions in the medical supply become necessary. If such tragic decision-making situations occur, people with disabilities are at risk of being disadvantaged, which the legislature must prevent through appropriate regulations. Pandemic protection measures also affect the core of fundamental and human rights, for example when a minimum of social contacts in care and other community facilities is denied or when people without being able to help themselves get into existential difficulties and are denied possible help. For all measures to combat the pandemic, social services, contact points and Shelters for people in emergency situations (e.g. for women and children affected by domestic violence, people in acute mental crises or homeless people) remain functional to the extent that they can receive help. A violation of fundamental and human rights can also exist if, in the case of outbreaks of infection in community facilities, group or Collective quarantines are ordered and carried out, so that healthy people are exposed to high risks of infection in the interest of fighting the pandemic. In the event of an outbreak of infection in community facilities, preparations should therefore be made to enable individual or small group accommodation. The core of economic, social and cultural human rights is threatened if possible and effective support and compensation measures are not taken. This is the case, for example, if support is not provided to secure a livelihood in the event of a de facto occupational ban, or if children and young people are completely excluded from education (e.g.

5. Protection of particularly vulnerable people

Persons with a high risk of infection and/or a severe course of the disease must be given special protection. This is necessary both in terms of protecting their own health and in terms of the common good. Decisions about protective measures must weigh direct pandemic-related health risks against potential harm from protective measures taken, taking into account social and psychological burdens. They must be accompanied by the least possible restrictions on the rights of the data subjects and they must be included in the decision-making processes. The decision on protective measures must be precarious from the systematic consideration of their consequences and side effects for groups that are disproportionately affected by social inequality life situations or discrimination are affected.

6. Promotion of crisis resilience of institutions

The lessons learned from the lack of resilience of institutions in the current crisis are that short-term and medium- and long-term protective measures must be flanked in order to minimize damage to goods protected by fundamental rights and to promote the individual resilience of particularly vulnerable people. Effective health protection can only be reconciled with obligations to comprehensive basic and human rights protection if essential social institutions are designed to be crisis-resistant. Where this is currently not the case, intersectoral cooperation at all levels of responsibility must be used to make adjustments. The demand to develop previously vulnerable institutions into resilient ones applies in particular to the areas of health, Education and social affairs with their essential services and essential relationships. This includes an infrastructure and, in particular, organizational and human resources that allow free resources or resources to be generated at short notice in a crisis. This is the only way to fulfill the assigned tasks and to react quickly and appropriately to the challenges caused by the crisis.

7. Promotion of personal responsibility and solidarity and preservation of social cohesion

In the event of a pandemic, a liberal and democratic state is dependent on the people living in it voluntarily helping to cope with it, showing solidarity and taking on responsibility independently. Personal responsibility and solidarity must be supported and promoted; where there is no scope for this, it must be created. The often creative and imaginative civil society contributions to overcoming the crisis should be supported and not hindered.

Where tasks of general interest are delegated to non-statutory welfare organizations, for example, these support systems should be supported by the state so that they can fulfill their tasks despite the special challenges of infection control (e.g. in long-term care or help for the homeless). Pressure and coercion on people can only be justified if voluntariness does not deliver the required results or if the ban on the assumption of competence as part of subsidiarity can no longer be followed because the political and social system threatens to become dysfunctional as a result of the pandemic. Intrusions into privacy should be avoided as far as possible. Where they are deemed necessary, they are subject to a special empirical and normative justification obligation. The protection of privacy and family of people in precarious

Life situations (particularly in community facilities) are to be taken into account equally. The potential of infection control measures to promote social divisions should be decisions are systematically taken into account.

8. Decentralized protection concepts adapted to area-specific and local conditions

Decentralized protection concepts adapted to area-specific and local conditions are more effective than undifferentiated blanket measures and usually interfere less with people's fundamental rights and freedoms. The lack of clarity and uncertainty caused by many regionally different measures must be countered by means of transparent communication. The most promising infection protection strategies include uniform and generally binding framework conditions that the state makes plausible, justifies and sanctions to the persons concerned. Within such framework conditions, concrete protection concepts should be implemented area-specifically, decentrally and independently by the persons authorized to make decisions. It is crucial To strengthen personal

responsibility in all areas of society and at all hierarchical levels and to use specific knowledge of local conditions. In this way you can also
Willingness to show solidarity and people's creative potential are made fruitful.

9. Fair distribution, minimization and compensation of burdens

The protection strategy should counteract discrimination, distribute burdens as fairly as possible and compensate for unavoidable unequal burdens. For those required for this
Both the direct and indirect consequences of the
Protection strategy for all affected social groups must be taken into account. In this
In particular, it is also important to ensure that the inherent and the situational
The vulnerability of people and the systemic vulnerability of institutions are given sufficient attention and all factors of resilience are strengthened at the different personal and institutional levels.
Likewise, the rights of people in precarious living conditions must be protected and the increase in social inequality must be counteracted. Aspects of social and intergenerational justice must be taken into account appropriately. For example, for children, adolescents and young adults in educational contexts, the focus should not be on catching up on the missed content in the shortest possible time. Rather, the main challenge is to prevent some pupils and students from being permanently inhibited in their cognitive and social development as a result of the Corona crisis.

10. Enabling and strengthening participation

The general claims to self-determination based on political justice and
Participation applies during a pandemic as well as at any other time. Also helps
Participation in the appropriate design of protective measures and promotes their
Acceptance. For the prospective and retrospective assessment of the consequences of
Infection protection measures are therefore the representatives of the interests of those affected
Involving groups of people as “experts in their own affairs”. This applies to everyone
Decision-making levels from the parliaments to the municipalities to individual educational and
Social institutions (e.g. student, parent and student representatives in the education sector, workshop and home advisory councils for integration assistance, refugee councils, self-representatives for homeless people). However, despite all efforts towards participation and its appreciation, the need for a coordinated approach should not be neglected in view of the unpredictability of a pandemic.

11. communication and information

Acceptance and legitimacy of pandemic protection measures are closely related. Their acceptance and the population's willingness to participate are decisively promoted by good crisis communication and appropriate, appealing and understandable information. This includes seeking dialogue with everyone and taking their concerns and positions seriously. The federal and state governments should provide systematic, continuous, multilingual and culturally sensitive information about the pandemic, pandemic policy and the individual protective measures - in particular the vaccination strategy. However, clarification and information must not be provided in a patronizing manner, as it

were "from above", but there must also be room for discussion on an equal footing. It should also be taken into account that many no longer obtain information from the traditional media such as press, radio and television, but from social media, in which on the one hand there is a lot of misinformation circulating, but on the other hand they also offer opportunities for dialogue and exchange. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required. Communication and information strategies should use these and other interaction options offensively in order to be successful. At the same time, the development and effective implementation of strategies against (especially intentional) disinformation is required.

12. International Justice

The fight against the pandemic can only be successful through a coordinated, international procedure succeed. It is therefore necessary to strengthen the United Nations and the World Health Organization with the aim of supporting the health systems of poorer countries and ensuring health care under pandemic conditions. This concerns the availability of protective measures, but also access to vaccines,

Treatment options and test methods. In particular, it must be ensured that the population in poorer countries can also be vaccinated. All possibilities should be examined impartially. It is a question of international justice, but also in the well-understood self-interest of rich countries, less prosperous countries in particular

To support the Global South in dealing with the pandemic and its consequences.

[literature](#)

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Verlauf der Covid-19-Pandemie in Deutschland

Inzidenz pro 100.000 Einwohner

Datenquelle: Johns Hopkins University / grafik: angenehme-gestaltung

