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ELI Principles for the COVID-19 Crisis

PREAMBLE

The outbreak of COVID-19 has brought immense suffering and death to a considerable number of people around the world. It has impacted fundamentally the functioning of States, their democratic institutions and legal systems. Therefore, it is understandable that governments have and are continuing to resort to exceptional measures in seeking to get control over the spread of COVID-19. These exceptional measures inevitably restrict the fundamental rights of citizens in ways that can be justified only in these extraordinary circumstances. It is in the greatest interest of society that these measures against COVID-19 are imposed and enforced within the framework of established democratic principles, the international legal order and the rule of law.

Therefore, although the spread of COVID-19 justifies limitations on the functioning of institutions such as Parliaments and courts, these limitations must be subject to democratic control, must not be misused and not applied for purposes other than measures related directly to the COVID-19 crisis.

ELI Principles for the COVID-19 Crisis

Principle 5 JUSTICE SYSTEM

- (1) The judiciary should do all that is reasonably practicable to continue to conduct proceedings and trials, particularly through the use of secure video and other remote links where available to the courts. In any case, the judicial system should maintain a minimum level of operations to deal with urgent matters, safeguard the rule of law and provide proper remedies to litigants, provided that the right to a fair trial, including the right to defence, is not infringed. The restrictions on the operation of the judiciary must be immediately removed when the COVID-19 emergency permits.
- (2) States should take appropriate measures to suspend or extend, where necessary, deadlines or time periods (whether fixed by statute or by courts) so that the rights of parties are not prejudiced by the emergency.
- (3) Measures must be taken to provide appropriate protection for those held in prisons. Where this is not possible, consideration should be given by the appropriate authority to granting temporary release to prisoners who are not considered to be a danger to society and particularly to the elderly and those with serious underlying health conditions.
- (4) Administrative sanctions and fines imposed on citizens for the violation of COVID-19 emergency legislation must have sufficient foundation in the law and they must be subjected to effective judicial review.

ELI Principles for the COVID-19 Crisis

Principle 15 RETURN TO NORMALITY

- (1) National governments should publish as soon as is practicable plans for an exit from the emergency and, in accordance with the rule of law, a return to normality and the ending of the emergency measures imposed for the crisis.
- (2) The ending of emergency measures and a return to normality should be monitored by EU institutions.