..... Tarikh:

.....

.....

.....

KEMENTERIAN KESIHATAN MALAYSIA
Blok E1, E3, E6, E7 dan E10, Kompleks E
Pusat Pentadbiran Kerajaan Persekutuan
62590 Putrajaya.

A.R. BERDAFTAR / SISPAA

Tuan/Puan,

PER: SAMADA KKM MEMPUNYAI BUKTI "JANGKITAN" MENURUT SEKSYEN 2 (1) AKTA PENCEGAHAN DAN PENGAWALAN PENYAKIT BERJANGKIT 1988 DAN PERKARA 1 (1) DAN 3 PERATURAN KESIHATAN ANTARABANGSA 2005?

1. Perkara 4 (1), 150 (6A) dan Bab II Perlembagaan melindungi hak asasi muktamad, dan perbuatan Akta Pencegahan dan Pengawalan Penyakit Berjangkit 1988 (APB) material adalah torts dan jenayah jika tiada pembuktian mandatori elemen "jangkitan ertinya kemasukan agen penyakit berjangkit ke dalam benda bernyawa dan pembiakannya dalam benda bernyawa" menurut seksyen 2 (1) dan 11 (1) APB dan pematuhan pembuktian seksyen 32, 24, 52, 191/193, 166/217, 167/218, 202, 130M dan 219 Kanun Keseksaan.

	Documented controlled experiment for the proof of "infection" under Act 342			
No.	Sek. 2 Act 342	Art. 2 IHR 2005	Koch's Postulate	River's Postulate
1	kemasukan	the entry	microorganism	virus
2	agen	agent	microorganism found in the ill, not from healthy person. microorganism must be isolated from a diseased organism	isolation of virus from diseased host
3	penyakit	health risk		
4	berjangkit	infectious		
5	ke dalam benda	in the body	microorganism grown in pure culture	cultivation of virus in host cells
6	benda bernyawa	humans and animals		
7	dan pembiakan	and development or multiplication	produce same disease in host	produce same disease in host
8	dalam benda	may constitute	re-isolation of microoganism	re-isolation of virus
9	bernyawa	a public		
10		health risk	detection of specific immune response to virus	
11	(Isu kesahan/kelayakan ujikaji RT-PCR / RTK-Ag, Seksyen 191 Kanun Keseksaan)			

2. KKM mengamalkan RTK-Ag dan mengesahkan 'less accurate' berbanding PCR untuk bukti 'jangkitan'. Pencipta PCR mengesahkan "It (PCR) doesn't tell you that you are sick," dan Mahkamah Rayuan memutuskan "If a person has a positive PCR test at a cycle threshold of 35 or higher...the chances of a person being infected are less than 3%. The probability of the person receiving a false positive is 97% or higher". Saintis tidak menemui "Certified Reference Materials" untuk SARS-CoV-2. Kesemua dokumen rasmi China dan WHO tidak mempunyai bukti pengasingan virus SARS-CoV-2. Pakar dalam Statement of Virus Isolation (SOVI) menegaskan "We are correct. The SARS-CoV-2 virus does not exist!"

3. AMBIL PERHATIAN, PCR/RTK-Ag diluar Akta dan KKM tiada bukti 'jangkitan' sejak 2019 sehingga kini, serta melakukan torts dan jenayah kemanusiaan. Justeru saya menuntut KKM mengisytiharkan 'documented controlled experiments' membuktikan jangkitan s 2 (1) menurut SOVI/lampiran dalam (7) hari.

4. AMBIL PERHATIAN, saya bebas memulakan tindakan sivil dan jenayah 'perbuatan pengganas' menurut seksyen 32, 130B, 130C, 130G, 130K, 130T, 212 dan 221 Kanun Keseksaan material tanpa rujukan lanjut kepada KKM jika tiada bukti 'jangkitan' menurut s 2 (1) / SOVI / notis dalam (7) hari. Terima kasih.

Rujukan https://covid.nurembergcode.org
https://samueleckert.net/isolate-truth-fund/
https://aceofcoins.com/corona-virus-gold-bounty

Yang benar,

Lamp. Repot Polis: .....
Statement of Virus Isolation (SOVI) & Artikel Dr. Stefan Lanka
Open letter from World Doctors Alliance
Mahkamah Rayuan Portugal dan Lampiran Autoriti (1) dan (2)
Pengakuan KKM, RTK-Ag "less accurate"

.....

s.k. Ibupejabat Polis Diraja Malaysia
Suhakam
Istana Negara

Bioterrorist/terrorist act under section 130C, 130G, 130J, 130JD, 130O, 130T and Chap. VIA of the Penal Code
Statutory Notice under section 32, 202, 130M, 130B (2) (3), 130K, 167, 191, 212, 221, 166, 217 & Chap. II Constitution

TO WHOM IT MAY CONCERN

Section 32, 202, 130M, 130B (2)(3) and 130T of the Penal Code
https://archive.org/details/exh.0

TAKE NOTICE, you are violating my fundamental human rights in criminal matters. I hereby request all documented controlled experiments describing the isolation of Covid-19, aka.SARS-CoV-2 virus in human beings, directly from a sample taken from a diseased patient, and where the patient sample was not combined with any other source of genetic material.

	Documented controlled experiment for the proof of "***infection***" under Act 342			
No.	Sec. 2 Act 342	Art. 1 IHR 2005	Koch's Postulate	River's Postulate
1	kemasukan	the entry	microorganism	virus
2	agen	agent	microorganism found in the ill, not from healthy person. microorganism must be isolated from a diseased organism	isolation of virus from diseased host
3	penyakit	health risk		
4	berjangkit	infectious		
5	ke dalam benda	in the body	microorganism grown in pure culture	cultivation of virus in host cells
6	benda bernyawa	humans and animals		
7	dan pembiakan	and development or multiplication	produce same disease in host	produce same disease in host
8	dalam benda	may constitute	re-isolation of microoganism	re-isolation of virus
9	bernyawa	a public		
10		health risk	detection of specific immune response to virus	
11	(Issue of legality & authorization of RT-PCR / RTK-Ag testing etc., *Section 191 Penal Code*)			

Note: The word "isolate" indicates a thing is separated from all other materials surrounding it.

I AM NOT REQUESTING documents where "*isolation*" of SARS-CoV-2 refers to:

a. the culturing of something; or
b. the performance of an amplication test (PCR); or
c. the sequence of something.

TO CLARIFY I AM REQUESTING, via. disclosure of all documented controlled experiments showing the isolation of SARS-CoV-2 virus in human beings; **within (7) days**, that is in the possession of Ministry of Health or Government of Malaysia, as these documents would have been integral in the crafting of Prevention and Control of Infectious Diseases Rules under Section 2 (1) and 11 (1) of the Prevention and Control of Infectious Diseases Act 1988 (Act 342), Article 1 and 3 of the International Health Regulations 2005. Thank you.

Date: ...../...../202....

Time: ..... am/pm

Place and issue:
Bukti "jangkitan" SARS-CoV-2: Sek.32, 52, 191, 202, 130M dan 130T KK
(continue at the back of this page)

Recipient: KEMENTERIAN KESIHATAN MALAYSIA
NRIC/No:

Signature: .....

Witness: .....
NRIC:

Signature .....
Report Police No:

c.c. Royal Malaysia Police, Suhakam, Ministry of Health, Prime Minister's Department, Magistrate/Chief Justice of Malaysia and The Istana Negara.

** Please visit https://covid.nurembergcode.org for our grounds and further information **

Kementerian Kesihatan Malaysia

Nama Pengadu: ..... Penerima: ..... Tarikh: ..... mukasurat (2)

Permohon bukti pengasingan virus SARS-CoV-2 dan "jangkitan" wabak penyakit menurut Seksyen 2 (1) dan 11 (1) Akta Pencegahan dan Pengawalan Penyakit Berjangkit 1988, Perkara 1 (1) dan 3 Peraturan-peraturan Kesihatan Antarabangsa 2005, dan menurut kausa Seksyen 32, 52, 166, 167, 191/193, 202, 130M, 130T dan 130C Kanun Keseksaan.

Bukti sokongan untuk permohonan mandamus dan tindakan sivil yang material menurut seksyen 130K, 217, 218, 219, 212 dan 221 Kanun Keseksaan.

Perlembagaan	**Hak Asasi Manusia, Bab II dan 150 (6A) Perlembagaan**
Perkara 5 (1)	Tiada seorang pun boleh diambil nyawanya atau dilucutkan kebebasan dirinya kecuali mengikut undang-undang (Bab IV Kanun Keseksaan)
Perkara 8 (1)	Semua orang adalah sama rata di sisi undang-undang dan berhak mendapat perlindungan yang sama rata di sisi undang-undang.
Perkara 11 (5)	Perkara ini (Islamic Laws) tidaklah membenarkan apa-apa perbuatan yang berlawanan dengan mana-mana undang-undang am (natural, moral universalism) yang berhubungan dengan ketenteraman awam, kesihatan awam atau prinsip moral; Seksyen 2 (1) dan 11 (1) Akta 342; "bukti jangkitan penyakit"
Kanun Keseksaan	**Notis telah sepenuhnya menyempurnakan bebanan pembuktian "perbuatan pengganas" di bawah Kanun Keseksaan** (Saya telah melengkapi Repot Polis Pertama, Notis Tuntutan Kepada KKM, dan Repot Polis Kedua)
32	Dalam tiap-tiap bahagian Kanun ini, kecuali jika suatu maksud yang berlawanan ternampak daripada kandungan ayatnya, perkataan yang berkenaan dengan **perbuatan yang dilakukan adalah juga termasuk <u>ketinggalan yang menyalahi</u>** undang-undang; (seksyen 191, 202, 130M, 130O, 130T Kanun Keseksaan)
130B (2)	Bagi maksud Bab ini, **"perbuatan pengganas"** bermaksud suatu perbuatan atau ugutan tindakan dalam atau luar Malaysia di mana **(a)** perbuatan atau ugutan jatuh di bawah subseksyen (3) dan tidak jatuh di bawah subseksyen (4); **(b)** perbuatan itu dilakukan atau ugutan dibuat dengan niat untuk melanjutkan suatu perjuangan politik, agama atau ideologi; dan **(c)** perbuatan atau ugutan berniat untuk **(i)** menakutkan orang awam atau sebahagian daripada orang awam; atau **(ii)** mempengaruhi atau memaksa Kerajaan Malaysia atau Kerajaan mana-mana Negeri di Malaysia, mana-mana Kerajaan lain, atau mana-mana organisasi antarabangsa untuk membuat atau menahan daripada melakukan apa-apa perbuatan**.**
130B (3)	Suatu **perbuatan atau ugutan** jatuh di bawah subseksyen ini jika ia: **(a)** melibatkan cedera parah pada tubuh seseorang; **(b)** membahayakan nyawa seseorang; **(c)** menyebabkan kematian seseorang; **(d)** mewujudkan risiko yang serius pada kesihatan atau pada keselamatan awam atau sebilangan orang awam; **(e)** melibatkan kerosakan serius pada harta benda; **(f)** melibatkan penggunaan senjatapi, bahan letupan atau alat berbahaya lain; **(g)** melibatkan pembebasan ke dalam persekitaran alam atau mana-mana bahagian persekitaran alam atau mengedar atau mendedah orang awam atau mana-mana bahagian orang awam kepada **(i)** mana-mana bahan bahaya, berbahaya, radioaktif atau memudaratkan; **(ii)** mana-mana bahan kimia toksik; **(iii)** mana-mana microbial atau agen biologi atau toksin; **(h)** adalah direka bentuk atau berniat untuk mengganggu atau mengusik secara serius, mana-mana sistem komputer atau peruntukan mana-mana perkhidmatan yang berkaitan secara langsung dengan infrastruktur komunikasi, perkhidmatan perbankan atau kewangan, utiliti, penangkutan atau infrastruktur penting yang lain; **(i)** adalah direka bentuk atau berniat untuk mengganggu, atau mengusik secara serius, peruntukan perkhidmatan kecemasan yang penting seperti polis, pertahanan awam atau perkhidmatan perubatan; **(j)** melibatkan prejudis kepada keselamatan negara atau keselamatan awam; **(k)** melibatkan kombinasi mana-mana tindakan yang ditentukan dalam perenggan (a) hingga (j); dan termasuk apa-apa perbuatan atau peninggalan yang boleh menjadikannya suatu kesalahan di bawah Akta Kesalahan-kesalahan Penerbangan 1984.
	Kausa kesalahan ke atas syarikat, majikan, parti politik, dan pihak yang terlibat dengan keganasan Bioterrorist/perbuatan pengganas menurut seksyen 130C, 130G, 130J, 130JD, 130O, 130T dan Bab VIA Kanun Keseksaan
13OT	Di mana suatu kesalahan di bawah seksyen 130N, **130O**, 130P atau 130Q telah **dilakukan oleh pertubuhan perbadanan**, mana-mana orang yang pada ketika kesalahan itu dilakukan, merupakan orang yang bertanggungjawab bagi pengurusan atau kawalan pertubuhan perbadanan itu, yang termasuk pengarah, pengurus, setiausaha atau lain-lain pegawai yang seumpamanya dalam pertubuhan perbadanan itu atau orang yang bertindak dalam kapasiti sebegitu, **hendaklah bersalah** melakukan kesalahan itu dan **<u>hendaklah dikenakan prosiding terhadapnya</u>** dan dihukum kecuali jika dia membuktikan bahawa: (a) kesalahan itu dilakukan tanpa kebenarannya atau kerjasamanya secara diam-diam; dan (b) dia telah melaksanakan usaha wajar untuk menghalang berlakunya kesalahan itu sepertimana yang dia harus menghalangnya, dengan mengambil kira sifat fungsinya dalam kapasiti itu dan pada semua keadaan; Seksyen 130T Kanun Keseksaan
130O	**(1)** Barang siapa, sama ada **secara langsung atau tidak langsung, memberikan atau menyediakan perkhidmatan kewangan atau kemudahan (a)** berniat supaya perkhidmatan atau kemudahan itu digunakan, atau ketahui atau yang ada sebab munasabah untuk mempercayai bahawa perkhidmatan atau kemudahan itu akan digunakan, secara keseluruhan atau sebahagian, bagi tujuan untuk melakukan atau membantu berlakunya suatu perbuatan pengganas, atau bagi tujuan memanfaatkan mana-mana orang yang melakukan atau membantu berlakunya suatu perbuatan pengganas; atau **(b)** yang ketahui atau yang ada sebab munasabah untuk mempercayai bahawa, secara keseluruhan atau sebahagian, perkhidmatan atau kemudahan itu akan digunakan oleh atau akan memanfaatkan mana-mana pengganas, entiti pengganas atau kumpulan pengganas, hendaklah dihukum **(aa)** jika perbuatan itu mengakibatkan kematian, dengan hukuman mati; dan **(bb)** dalam kes-kes yang lain, dengan pemenjaraan selama tempoh tidak kurang dari tujuh tahun tetapi tidak melebihi tiga puluh tahun, dan hendaklah juga dikenakan denda. **(2)** Bagi tujuan subseksyen (1), "perkhidmatan kewangan atau kemudahan" termasuk perkhidmatan dan kemudahan yang ditawarkan oleh peguam dan akauntan yang bertindak sebagai nomini atau ejen bagi anak guam mereka.
130G	Barang siapa yang dengan pengetahuan: (a) menghasut atau **menggalakkan berlakunya perbuatan pengganas**; (b) menghasut atau menggalakkan keahlian di dalam kumpulan pengganas; atau (c) mencari harta bagi manfaat kumpulan pengganas atau bagi berlakunya perbuatan pengganas; hendaklah dihukum dengan pemenjaraan bagi tempoh yang boleh sampai tiga puluh tahun, dan hendaklah juga dikenakan denda.
130K	Barang siapa yang **melindung, atau mengelak, menghalang atau campurtangan dalam penangkapan** mana-mana orang yang **diketahui atau yang ada sebab untuk mempercayai** bahawa orang itu: (a) telah melakukan atau sedang merancang atau adalah **<u>berkemungkinan</u> akan melakukan perbuatan pengganas**; atau (b) adalah ahli kumpulan pengganas, hendaklah dihukum dengan **<u>pemenjaraan seumur hidup</u>**, dan hendaklah juga dikenakan denda; atau **pemenjaraan selama tempoh yang boleh sampai dua puluh tahun**, atau dengan denda (Seksyen 212, 166 dan 217 Kanun Keseksaan)
52	Tidaklah boleh dikatakan dilakukan atau dipercayai dengan suci hati apa-apa yang dilakukan atau dipercayai dengan tiada hemat dan cermat yang semestinya (Seksyen 24, 25, dan 26 Kanun Keseksaan)
	NO. REPOT POLIS (STEP 1 & 3), NOTIS KKM
Lain-lain	Bahagian V, VIA, IX, XI, XIV, XVII, dan Bab II Perlembagaan
S.K:	

. . . . . .

Alamat: https://covid.nurembergcode.org

Statement on Virus Isolation (SOVI)

***Isolation**: "The action of isolating; the fact or condition of being isolated or standing alone; separation from other things or persons; solitariness."*
—From the Oxford English Dictionary

The controversy over whether the SARS-CoV-2 virus has ever been isolated or purified continues. However, using the above definition, common sense, the laws of logic and the dictates of science, any unbiased person must come to the conclusion that the SARS-CoV-2 virus has *never* been isolated or purified. As a result, no confirmation of the virus' existence can be found. The logical, common sense, and scientific consequences of this fact are:

- the structure and composition of something not shown to exist can't be known, including the presence, structure, and function of any hypothetical spike or other proteins;
- the genetic sequence of something that has never been found can't be known;
- "variants" of something that hasn't been shown to exist can't be known;
- it's impossible to demonstrate that SARS-CoV-2 causes a disease called Covid-19.

In as concise terms as possible, here's the proper way to isolate, characterize and demonstrate a new virus. First, one takes samples (blood, sputum, secretions) from many people (e.g. 500) with symptoms which are unique and specific enough to characterize an illness. Without mixing these samples with ANY tissue or products that also contain genetic material, the virologist macerates, filters and ultracentrifuges i.e. *purifies* the specimen. This common virology technique, done for decades to isolate

bacteriophages[1] and so-called giant viruses in every virology lab, then allows the virologist to demonstrate with electron microscopy thousands of identically sized and shaped particles. These particles are the isolated and purified virus.

These identical particles are then checked for uniformity by physical and/or microscopic techniques. Once the purity is determined, the particles may be further characterized. This would include examining the structure, morphology, and chemical composition of the particles. Next, their genetic makeup is characterized by extracting the genetic material directly from the purified particles and using genetic-sequencing techniques, such as Sanger sequencing, that have also been around for decades. Then one does an analysis to confirm that these uniform particles are exogenous (outside) in origin as a virus is conceptualized to be, and not the normal breakdown products of dead and dying tissues.[2] (As of May 2020, we know that virologists have no way to determine whether the particles they're seeing are viruses or just normal break-down products of dead and dying tissues.)[3]

If we have come this far then we have fully isolated, characterized, and genetically sequenced an exogenous virus particle. However, we still have to show it is causally related to a disease. This is carried out by exposing a group of healthy subjects (animals are usually used) to this isolated, purified virus in the manner in which the disease is thought to be transmitted. If the animals get sick with the same disease, as confirmed by clinical and autopsy findings, one has now shown that the virus actually causes a disease. This demonstrates infectivity and transmission of an infectious agent.

None of these steps has even been attempted with the SARS-CoV-2 virus, nor have all these steps been successfully performed for any so-called

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[1] Isolation, characterization and analysis of bacteriophages from the haloalkaline lake Elmenteita, KenyaJuliah Khayeli Akhwale et al, PLOS One, Published: April 25, 2019.
https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0215734 -- accessed 2/15/21

[2] "Extracellular Vesicles Derived From Apoptotic Cells: An Essential Link Between Death and Regeneration," Maojiao Li1 et al, Frontiers in Cell and Developmental Biology, 2020 October 2.
https://www.frontiersin.org/articles/10.3389/fcell.2020.573511/full -- accessed 2/15/21

[3] "The Role of Extraellular Vesicles as Allies of HIV, HCV and SARS Viruses," Flavia Giannessi, et al, Viruses, 2020 May

pathogenic virus. Our research indicates that a single study showing these steps does not exist in the medical literature.

Instead, since 1954, virologists have taken unpurified samples from a relatively few people, often less than ten, with a similar disease. They then minimally process this sample and inoculate this unpurified sample onto tissue culture containing usually four to six other types of material — **all of which contain identical genetic material as to what is called a "virus."** The tissue culture is starved and poisoned and naturally disintegrates into many types of particles, some of which contain genetic material. Against all common sense, logic, use of the English language and scientific integrity, this process is called "virus isolation." This brew containing fragments of genetic material from many sources is then subjected to genetic analysis, which then creates in a computer-simulation process the alleged sequence of the alleged virus, a so called *in silico genome*. At no time is an actual virus confirmed by electron microscopy. At no time is a genome extracted and sequenced from an actual virus. This is scientific fraud.

The observation that the unpurified specimen — inoculated onto tissue culture along with toxic antibiotics, bovine fetal tissue, amniotic fluid and other tissues — destroys the kidney tissue onto which it is inoculated is given as evidence of the virus' existence and pathogenicity. This is scientific fraud.

From now on, when anyone gives you a paper that suggests the SARS-CoV-2 virus has been isolated, please check the methods sections. If the researchers used Vero cells or any other culture method, you know that their process was not isolation. You will hear the following excuses for why actual isolation isn't done:

1. There were not enough virus particles found in samples from patients to analyze.

2. Viruses are intracellular parasites; they can't be found outside the cell in this manner.

If No. 1 is correct, and we can't find the virus in the sputum of sick people, then on what evidence do we think the virus is dangerous or even lethal? If No. 2 is correct, then how is the virus spread from person to person? We are told it emerges from the cell to infect others. Then why isn't it possible to find it?

Finally, questioning these virology techniques and conclusions is not some distraction or divisive issue. Shining the light on this truth is essential to stop this terrible fraud that humanity is confronting. For, as we now know, if the virus has never been isolated, sequenced or shown to cause illness, if the virus is imaginary, then why are we wearing masks, social distancing and putting the whole world into prison?

Finally, if pathogenic viruses don't exist, then what is going into those injectable devices erroneously called "vaccines," and what is their purpose? This scientific question is the most urgent and relevant one of our time.

We are correct. The SARS-CoV2 virus does not exist.

Sally Fallon Morell

Sally Fallon Morell, MA

Thomas Cowan, MD

Dr. Thomas Cowan, MD

Dr. Andrew Kaufman, MD

Please show your support by sharing this document with as many people as you can, and then visit https://www.andrewkaufmanmd.com/sovi to add your name to the list of supporters world wide.

WIR HABEN FESTGESTELLT...

Alle Virologen, nicht nur die abgebildeten, haben sich selbst und die Öffentlichkeit getäuscht, wenn sie die Existenz von krankmachenden Viren wie z.B. SARS-CoV-2 behaupten. Virologen töten unbeabsichtigt Zellen im Reagenzglas und glauben, dass das ein Beweis für die Anwesenheit und die Isolation eines Virus ist. Nur aus Bruchstücken sterbender Zellen konstruieren Virologen gedanklich eine Gensequenz und geben diese als Tatsache aus. Die Testverfahren bieten daher keinerlei Aussagekraft und Bedeutung. Typische Strukturen sterbender Zellen im Elektronenmikroskop werden als Viren ausgegeben. Solche Strukturen konnten bisher noch nie in einem Menschen nachgewiesen oder erkannt werden!

WE NOTICED...

All virologists, not just those pictured, have deceived themselves and the public when they claim the existence of disease-causing viruses such as SARS-CoV-2.

Virologists inadvertently kill cells in test tubes, believing that this is proof of the presence and isolation of a virus. Only from fragments of dying cells do virologists mentally construct a gene sequence and pass it off as fact. Therefore, the test procedures do not offer any significance or meaning. Typical structures of dying cells in the electron microscope are passed off as viruses. Such structures could never be detected or recognized in a human being so far!

UNSER ZIEL

Diese Fehlentwicklungen haben die Medizin weit von der Realität und dem Verständnis von wahrer Gesundheit entfernt. Wir möchten einen Beitrag leisten, allen Menschen das Verständnis über Krankheit und Gesundheit umfassend näherzubringen.

OUR GOAL

Top, die Wette gilt!

WE GUARANTEE:

1,5 million € for a virologist who presents scientific proof of the existence of a corona virus, including documented control experiments of all steps taken in the proof.

You're on!

Es gilt zu widerlegen:

1. Virologen deuten das Sterben von Zellen im Labor als viral bedingt. Sie übersehen aufgrund fehlender Kontrollversuche, dass sie die Zellen im Labor selbst und unbeabsichtigt, durch Verhungern und Vergiften töten. Dieser Fehldeutung liegt eine einzige Publikation von John Franklin Enders und einem Kollegen vom 1.6.1954 zugrunde. Über diese Publikation wurde im Masern-Virus-Prozess höchstrichterlich entschieden, dass darin keine Beweise für ein Virus enthalten sind. Diese Publikation wurde zur exklusiven Grundlage nicht nur der Masern-Virologie, sondern der gesamten Virologie seit 1954 und der Corona-Hysterie.

1. Virologists interpret the death of cells in the laboratory as being caused by viruses. Due to a lack of control experiments, they overlook the fact that they kill the cells in the laboratory themselves and unintentionally, by starvation and poisoning. This misinterpretation is based on a single publication by John Franklin Enders and a colleague on 6/1/1954. This publication was ruled by the highest court in the measles virus trial to contain no evidence of a virus. This publication became the exclusive basis not only of measles virology, but of all virology since 1954 and of the Corona hysteria.

2. Virologen setzen gedanklich kürzeste Stückchen an sog. Erbinformationen absterbender Zellen gedanklich/rechnerisch zu einem sehr langen Erbgutstrang zusammen, den sie als den Erbgutstrang eines Virus ausgeben. Dieser gedanklich/rechnerische Vorgang wird als Alignment bezeichnet. Dabei haben sie die Kontrollversuche nicht getätigt, den Versuch, auch aus kurzen Stückchen sog. Erbinformation nicht-infizierter Quellen, den erwünschten Erbgutstrang gedanklich/rechnerisch zu konstruieren.

2. Virologists mentally/computationally assemble the shortest pieces of so-called genetic information of dying cells into a very long genetic strand, which they pass off as the genetic strand of a virus. This mental/computational process is called alignment. In doing so, they have not carried out the control experiments, the attempt to mentally/computationally construct the desired hereditary strand even from short pieces of so-called genetic information from non-infected sources.

3. Virologen benötigen für das Alignment eines Virus immer einen vorgegebenen Erbgutstrang eines Virus. Sie benutzen aber hierzu immer einen auch nur gedanklich/rechnerisch erzeugten Erbgutstrang und niemals einen echten, einen in der Realität gefundenen. Sie tätigen dabei niemals die Kontrollversuche, ob aus dem vorhandenen Datensatz sog. Erbinformationen auch „virale" Erbsubstanzstränge ganz anderer Viren konstruiert werden könnten oder nicht.

3. Virologists always need a given genetic strand of a virus for the alignment of a virus. However, they always use a hereditary strand that has only been generated mentally/computationally and never a real one that has been found in reality. They never make thereby the control attempts whether from the available data set so-called hereditary information also "viral" hereditary substance strands of completely different viruses could be constructed or not.

4. Virologen haben „Viren" niemals in Menschen, Tieren, Pflanzen und deren Flüssigkeiten gesehen oder daraus isoliert. Sie haben das nur scheinbar, indirekt und immer nur mittels ganz spezieller und künstlicher Zellsysteme im Labor getan. Sie haben niemals die Kontrollversuche erwähnt oder dokumentiert, ob ihnen die Darstellung und die Isolation von Viren auch in und aus Menschen, Tieren, Pflanzen oder deren Flüssigkeiten gelungen ist.

4. Virologists have never seen or isolated "viruses" in humans, animals, plants and their fluids. They have done this only

5. Virologists have never isolated those supposed viruses which they photograph by means of electron micrographs, characterized them biochemically or obtained their supposed genetic material from them. They have never performed or published control experiments to determine whether, after isolating these structures, "viral" proteins (the envelope of the virus) and, above all, the viral hereditary strand, which is supposed to be the central component and characteristic of a virus, could actually be detected.

6. Virologen geben typische Artefakte sterbender Gewebe/Zellen und typische Strukturen, die beim Verwirbeln zelleigener Bestandteile wie Eiweiße, Fette und den verwendeten Lösungsmitteln entstehen, als Viren oder als virale Bestandteile aus. Auch hier fehlen die Kontrollversuche mit nicht infizierten, aber ebenso behandelten Zellen/Geweben.

6. Virologists pass off typical artifacts of dying tissues/cells and typical structures formed when cellular components such as proteins, lipids and the solvents used are swirled as viruses or as viral components. Again, control experiments with uninfected but equally treated cells/tissues are lacking.

7. Die sog. Übertragungsversuche, die Virologen tätigen, um die Übertragbarkeit und Krankheitserregung der vermuteten Viren zu beweisen, widerlegen die gesamte Virologie. Es sind ganz offensichtlich die Versuche selbst, die die Symptome auslösen, die im Tierversuch als Beweis für die Existenz und die Wirkung der vermuteten Viren ausgegeben werden. Auch hier fehlen jegliche Kontrollversuche, bei denen exakt das Gleiche gemacht wird, bloß mit nicht-infizierten oder sterilisierten Materialien.

7. The so-called transmission experiments, which virologists carry out to prove the transmissibility and pathogenicity of the presumed viruses, disprove the entire virology. It is quite obviously the experiments themselves that cause the symptoms that are passed off in animal experiments as proof of the existence and effect of the presumed viruses. Again, there is a lack of any control experiments in which exactly the same thing is done, merely with non-infected or sterilized materials.

CORONA VIRUS GOLD BOUNTY

"CORONA VIRUS GOLD BOUNTY"

GOLD BOUNTY FOR PROOF OF THE CORONA VIRUS

April 4th 2020.

I have been asked to publish this "Gold Bounty" by a small, anonymous group of people, who are offering a bounty in the amount of 20 kilograms of .999 fine gold (Au) bullion for evidence of the Corona Virus under the following criteria.

Premise 1: The Corona Virus is a communicable virus and it is killing people as reported.

Premise 2: There is no "Corona virus" and no one is contagious. However many cells in your body already have microzymata that already produce disease that a healthy immune system normally removes. The "5G" microwave radiation, can then rupture these cells and release too many microzymata at once, over-whelming your weakened immune system and then kill you. Most people have a very weakened immune system because they are over-weight, and have bad habits such as vaping smoking, too much alcohol or are on opiods (especially for allergies and auto-immune disorders) or even illegal drugs.
https://youtu.be/zFN5LUaqxOA

People have been programmed by movies for several decades with incorrect information about viruses so that they will be terrorized and do what they are told, acting against their own best interests. The people behind this and other viruses have been conducting illegal epidemiological studies over the same period of time with other virus scares, against people and livestock (i.e. mad cow disease, bird flu, swine flu, zika, sars, just to name a few). The electronic surveillance we have been exposed to has allowed these same people to collect data that will predict, very accurately, how people will react in these situations, both collectively and individually.

Either way, the following effects are caused by this so-called "Corona Virus":

1. Blame the economic collapse on the virus.

2. Relieve governments, bankers and those who caused the financial crisis of all of their debt obligations under the provisions of "force majeure".

3. Shut down all economic activity world-wide and further allow the elite to further monopolize and acquire all the resources they haven't yet taken.

4. Eliminate the very expensive pensioners, a/k/a "baby boomers".

5. Kill a planned 65,000,000 people world-wide within a few years.

6. Kill 650,000,000 over the next eight years.

7. Destroy certain industries such as the cattle, airlines and real estate.

8. Eliminate protests and lawsuits.

9. Hide or prevent the prosecution of criminals involved in human trafficking.

10. Force the vaccination agenda.

11. Coerce everyone in the world to depend upon government subsidies, a/k/a "basic income".

12. Hijack the news cycle, distracting, confusing further misleading people into making the wrong decisions against their own self-interests.

13. Use the virus as a cover to assassinate dissidents to this and other agendas.

14. Justify the abolition of all cash and force people into digital currency with a built-in progressive tax without any vote.

15. Eliminate competition by small businesses competing with world-wide franchises and conglomerates.

16. Cost people or survivors billions of dollars for treatment programs that never cure the purported virus.

17. Use the Small Business Administration and its "rescue loan" programs to take down the remaining businesses that manage to survive this first wave of changes.

18. Use the Center for Disease Control (CDC) to function as an agency of a foreign power, the World Health Organization, to dictate policy in the United States, and similar associations in other nations, thereby ignoring any democratic process already established.

19. Shutdown all travel and imprison people in their homes.

20. Create an opportunity to replace the labor force with automated and cybernetic systems.

The list continues as more data is collected.

The "Corona Bounty" of 20 Kilobars of gold is offered by this anonymous group, let's call it "The Gold Bounty Group", under the following terms.

All data satisfying these criteria must be included in documents and any data or samples that cannot be included within documents, shall be securely stored and referenced in documents so that they can be reviewed by an independent body of scientists and forensic experts. These documents must be labeled and uploaded to a secure website, and then the website must be published for all to review and comment before any consideration for the payment of the bounty is made. The documentary evidence will be reviewed by an independent body of scientists and forensic experts and its results will be published. A world-wide survey will be taken and the results also published to determine if the evidence warrants the payment of the Gold Bounty.

If no one claims or is eligible to claim the Gold Bounty within a reasonable time, the responsible individuals of the government agencies and associations that are promoting the virus scare may be subject to civil and criminal prosecution for acts of terrorism and human rights violations under international law, very much like the Nuremberg Trials.

Here are the criteria:

1. List independent scientific studies (with full disclosure of funding sources) proving the existence of the so-called "Corona Virus" or "Covid19".

2. Provide video-graphic or photo-graphic evidence of the actual virus including the identity of the photographer, scientists involved and the equipment used to take the photograph (or video) including calibration data of the equipment, source of funding and location of laboratory.

3. Scientifically verifiable evidence that this virus is contagious.

4. Evidence of the origin of the virus, including time, date and location.

5. Evidence that this virus is not a biological weapon engineered by man.

6. Evidence that any one person may be a risk to the public safety or the health and well-being of anyone.

7. Evidence that anyone who has purportedly died from this so-called virus, could not have possibly died from any other cause.

8. Evidence of documented cases where people died, such that the evidence and cause of death can be independently and scientifically verified that the cause of death could have been nothing other than the virus, and full disclosure of all related funding sources used.

9. Proof that shutting down society is less of a public safety risk than treating infected people just like any other flu or virus.

10. Proof that this virus is an epidemic or pandemic by traditional standards and criteria.

11. Proof that the public safety claims are true and accurate based upon scientifically verifiable evidence.

My office may be contacted in behalf of The Gold Bounty Group.

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The causes of the corona crisis are clearly identified

VIROLOGISTS

who claim disease-causing viruses
are science fraudsters and must be prosecuted

by Dr. Stefan LANKA

The causers of the corona crisis are clearly identified

Virologists

who claim disease-causing viruses are science fraudsters and must be prosecuted

from Dr. Stefan Lanka

Summary

Science and scientificness are important instruments that help to identify and solve challenges. Science has very clear rules: Whoever makes claims must prove them clearly, comprehensibly and verifiably. Only statements that are verifiable may be called scientific, everything else falls within the realm of faith. The facts of faith must not be presented as scientifically proven facts in order to derive or justify governmental measures.

Scientific statements must be refutable, falsifiable in order to be allowed to claim them as scientific facts. The first and written duty of every scientist is to strictly check his own statements, to try to refute them. Only in the case that this refutation is not successful and this failure is clearly documented by control experiments, a statement may be called scientific.

All corona measures issued by governments and subordinate authorities are ultimately regulated by law, in Germany the Infection Protection Act (IfSG), but are only seemingly legitimized by it and not justified. With § 1 ifSG, for example, the target provision "scientifically" subjects all participants in Germany to the rules of science. The most important rule of science is the documented and unsuccessful attempt to prove the statement that is presented as true and scientific. All scientific rules are preceded by adherence to the laws of thought and logic. If these are disregarded or violated, the scientific statement is disproved as well as by a successful control experiment.

The meaning and choice of words in all publications on all pathogenic viruses proves that the virologists not only violated the laws of thought, logic and binding rules of science, but also refuted the existence claims about pathogenic viruses themselves. If one has taken off the hypnotic anxiety glasses and reads objectively with reason what the authors do and write, every interested person who is able to read English and has acquired knowledge of the methods used will find out that these virologists (except those who work with phages and the phage-like viruses) misinterpret normal gene sequences as vital components and thus have disproved their whole field of expertise. This is particularly easy to see in the case of the assertions of the existence of the alleged SArS-CoV-2 virus.

Since these virologists have clearly violated the laws of thought, logic and the rules of scientific work with their statements and by their actions, they can be colloquially described as science cheats. But since science fraud does not occur in criminal law and there are no precedents for it, I suggest and will do this myself, to have the employment fraud of virologists - pretending to be scientific but acting and arguing anti-scientifically - established in court and in criminal law. The responsible governmental authorities are called upon to prosecute these anti-scientific employment fraudsters in order to prevent them from doing anti-scientific and, as a consequence, anti-social and dangerous things. From the moment that a first court of law establishes the facts outlined below and convicts the first virologist of employment fraud, the end of the corona crisis will be heralded and sealed by the court and the global corona crisis will turn out to be an opportunity for all.

Introduction

Humanity is facing a great challenge: The inherent dynamics and consequences of fear and anti-biosis through the discipline of biology and medicine, disturb and destroy the environment, plants, animals, people and the economy. The corona crisis is only the visible tip of an iceberg on a collision course with everyone and everything. One of the reasons for this challenge is materialism, the attempt to explain life by purely material models. Our materialism of today was invented in "post-socratic" antiquity as an explicit counter-reaction to fear and abuse of power by religions. This is a comprehensible, human and humanitarian motivated action, but it has dramatic consequences. This materialism has produced the taught good-evil-biology, the "prevailing opinion" in medicine based on it and the resulting anti-biosis (antibiotics, radiation, chemotherapy, disinfection, restriction of basic rights, vaccination, lock-down, qua- rantain, social distancing etc.). more and more people, environment and economy are harmed by this ideology. Their materialistic good-evil theory, which has no actual basis but is based on disproved assumptions, developed unrecognized into the most powerful religion.
The materialistic theory of life states that there are only atoms, but no consciousness, no spiritual forces and no animator who could have created them and set them in motion. In order to be able to explain the cosmos and life in a purely material way, our "science" is forced to assert a huge bang, in which all atoms were created out of nothing, which flew apart. Some atoms would touch each other by chance and form molecules. These molecules had formed a primordial cell by accidental coming together, from which all further life had developed by struggle and selection. All this is said to have happened in unimaginable lengths of time in the distant past, and is therefore not subject to scientific examination and must therefore not be called scientific.

For a better, real and experimentally accessible view of life, I refer to the very substance of which life consists. It is the elementary substance of which the membrane consists, the so-called surface tension membrane of water, which water forms wherever it has contact with other substances or with itself in motion and vortexes. Aristotle called this substance ether and Dr. Peter Augustin rediscovered it in the form of the primary substance. Japanese plant physiologists referred to this substance as pi-water. This knowledge and point of view resulting from the knowledge of the ether/primordial substance also lets the pre-Socratic principle revive, become conceivable and imaginable: Thinking in the atomic theory makes this kind of imagination and imaginary worlds more difficult or prevents it and, if no other ways of thinking are known or are frowned upon, forces false assumptions. The entire academic world of biology and medicine is based on such a false assumption.

in 1848, when constructive effects of the French Revolution had a chance to unfold in Germany, the attempts at change failed and caused a dramatic hardening and deterioration of political and social life. While in 1848 the man who was responsible for the current development of biology and medicine still advocated humane, logical and correct measures for the "prevention of epidemics", in the following ten years he adapted to the hardening and increasingly extreme political conditions. It was Rudolf Virchow who, in 1858, without any scientific basis, but exclusively based on the Atomic Theory of Democritus and Epicurus, postulated the Cellular Theory of life and all diseases: Cellular Pathology.
throughout his life, Rudolf Virchow suppressed "relevant facts" of embryology and tissue science in order to present and popularize his new cell theory as something real. However, this knowledge of embryology and tissue theory, the

germ theory of life, is an indispensable prerequisite for understanding life, its development and, above all, diseases, cures, healing crises and obstacles to healing.

Rudolf Virchow claimed, analogous to the Atomic Theory, that all life originates from a cell.The cell was the smallest, indivisible unit of life, which at the same time, however, would cause all diseases by the formation of alleged disease toxins, Latin virus. This laid the foundation on which the theories of genes, infections, immunity and cancer had to develop in order to be able to explain the processes of life, illness and healing within this theory. If it is believed because it is taught that all processes are only caused by material interactions and that all life originates from one cell, the followers of this view are forced to adopt a construction and function plan of life, i.e. a hereditary substance, and to assert that it exists. The same logic of compulsion results for the claimed poisons of diseases. If the cell allegedly produces virus=disease toxins as the cause of disease in order to distribute them inside and outside the body, a place in an individual must be claimed where and in which this disease toxin, the virus, was first produced. If this way of thinking is elevated to a dogma, on the other hand, nothing else may be taught, and if its views are defamed as unscientific or as a conspiracy against the state, it excludes from the outset purely other ways of thinking and imagining the development of diseases within a body or in a group of people. This logic of compulsion always seeks the causes only in the categories of material defects or material malice. It is not mentioned that the idea of the virus as a poison was elegantly and scientifically disproved and abandoned in 1951 and that since 1952 another idea had to be invented:
The idea that viruses are a collection of dangerous genes. Here again, it is concealed that there is still no solid scientific proof for the assumption of such gene accumulations, which could be called viruses. The good news is that the new genetic virology, which had experienced its upswing from 1954 onwards, has disproved itself by its own statements, in a truly scientific way, i.e. easily comprehensible and verifiable. This statement is 100% correct, proven and I stand up for this statement as a virologist, as a scientist, as a citizen and as a human being.

The transition from toxin virology to today's genetic virology

The idea of disease toxins is still quite effective, since dangerous bacterial protein toxins are still claimed to be dangerous. Or bacteria, such as the corkscrew bacteria, which are claimed to be dangerous and which would allegedly bore from the suspected point of entry via the nerves into the brain. What virologists, physicians and science journalists are keeping quiet about is the fact that the idea that viruses were defined as protein toxins, which was valid until 1951, had to be abandoned that year. In order to test the assumption and assertion of toxin-viruses and to be allowed to claim them as scientific, two control experiments were conducted:
1. Healthy tissue was exposed to decomposition and not just tissue supposedly damaged by viruses. It was found that the proteins produced by the decomposition of healthy tissue are the same as those produced by the decomposition of "virus-damaged" tissue. This refuted the virus assumption.
2. the protein-toxin-virus assumption was additionally disproved by the fact that in the electron microscope of "virus diseased" humans, animals and their fluids never anything else could be found and photographed than it was the case with healthy humans. By the way, this has remained so until today.

The clinical, i.e. medical virology disproved itself with these successful control experiments and gave up with words of regret, which was only noticed by attentive readers of professional journals. This fact was suppressed by the mass media because the hypnotists of power celebrated the ongoing vaccination campaigns.

Although the viruses were lost as a justification for vaccination, the vaccination campaigns were not interrupted - also because of the silence of the health authorities and "science". After the abandonment of virology, biology and medicine could not find any other explanation within the purely material cell theory for the diseases and phenomena of simultaneous or increased occurrence of diseases defined as viral.

The participants were thus forced to invent a new theory of what viruses should be in the future. They geared themselves to actually existing structures, which are called phages and are formed by bacteria when they are removed from their environment and the exchange with other bacteria and microbes is prevented. As a young student I was fortunate to isolate such a phage-like structure from the sea, to study its structure, composition and interaction with the environment. This led me directly into the field of virology, as I believed unsuspectingly that I had discovered a harmless virus and a stable virus-host relationship to research the origin of viruses. Thirty years later, new structures of what are now called "giant viruses" have been and are being discovered all the time. In the meantime, it has been clearly proven that they are at the beginning of the processes with which biological life begins or becomes visible to us. French virologists recognize that these structures form the fourth kingdom of life, next to the primordial bacteria, the bacteria and the eukaryotes.

The structures erroneously called phages, i.e. bacteria eaters and giant viruses, can also be described as a type of spores that bacteria and simply organized living beings form when their living conditions change in such a way that they can no longer reproduce or survive ideally. Depending on the species, these helpful structures always consist of a strand of the so-called hereditary substance DNA of exactly the same length and exactly the same composition. This type of DNA is always surrounded by a shell of the dense substance from which biological life originates. This is the reason why "phages" and "giant viruses" - let us better call them bionts - are easy to isolate i.e. to enrich and separate from all other components of life. in this isolated form they can and are regularly biochemically analyzed. Each biochemical characterization reveals that the nucleic acid of a type of "phage" or "giant virus" always has exactly the same length and always exactly the same composition.

In fact, for decades, phages were the only source of pure nucleic acid (DNA) in biochemical studies. The process of absorption and release of DNA into and out of bacteria, documented under the electron microscope, was interpreted as an infection. It has been claimed without any proof that phages attack bacteria, rape them, force their nucleic acids on them and that the bacteria die because of this. Only bacteria that are extremely inbred, i.e. constantly reproduced without having contact to other bacteria or microbes, are transformed into phages in an act of metamorphosis. This transformation is misinterpreted as the death of the bacteria by phages. On the other hand, bacteria that are freshly isolated from their environment never transform into phage and do not die if phage is applied in whatever amounts. This is also the reason why the often cited phage therapy as a substitute for antibiotics, for example to suppress pain and other symptoms - as with any other poisoning - can and will never work with "phages" in the desired sense and to the desired extent.

Biology of phages and giant viruses and the resulting refutation of the cell theory of life

This is the situation with the algae (ectocarpus siliculosus), from which I isolated their "giant viruses": The mobile forms of the algae, the gametes and spores, search for the "giant viruses" in their environment with their mobile flagella and absorb these "giant viruses". The

growing algae integrate the nucleic acid of the "giant viruses" into their own chromosomes. It was observed that algae with "giant viruses" are better off than those without. It has never been observed that algae with "giant viruses" are worse off than those without. New and more and more amazing "giant viruses" with more and more amazing properties are constantly being found and more and more evidence is being created that bacteria and micro-organisms, amoebae and unicellular organisms are created from "giant viruses" into which they are transformed as if their living conditions no longer existed.

Giant viruses are apparently created by and around nucleic acids, which develop catalytic activities, i.e. they release energy independently, synthesize further nucleic acids, other molecules and substances and thereby constantly generate new properties and abilities. The particularly reactive and diverse nucleic acid forms of RNA, keyword "The RNA world", which can easily and constantly transform into DNA and retransform back into DNA, are also created in the process of self-organization of life, without any scientifically ascertainable reason or cause.With the discovery of phage, which is only ever created by the transformation of extremely inbred (incest-) bacterial cultures, and giant viruses, which maintain themselves, enlarge and actively metabolise themselves, and the discovery of new organisms consisting of giant viruses, three things have been proven so far:
i. The cell theory that biological life exists only in the form of cells and arises only from cells has been disproved.
ii. The assertion that biological life originated in grey primeval times has been refuted. Life constantly arises anew and before our eyes, if we only look at life objectively and restricted by no dogmas and unfounded theories. It is proven that biological life as we know it now can arise wherever there is water and perhaps also conditions that are the same or similar to those on our mother planet earth.
iii. The negative interpretation that the uptake of nucleic acids from "phages" and "giant viruses" into other organisms has been interpreted as infection and as harmful is disproved. This observation, however, was the reason to believe from 1952 onwards that there were genetic viruses in humans that caused diseases by transmitting their "dangerous" nucleic acids

and can be held responsible for death and destruction. To this day, no virus has been seen in or isolated from humans, animals, nor plants or their fluids. It has not even been possible to isolate a nucleic acid that would correspond to the length and composition of the genetic strands of the claimed disease causing viruses, although the isolation, presentation and analysis of the composition of nucleic acids of this length has long been possible using the simplest standard techniques.

A nobel prize and its fatal consequences

in isolated form, "phages" and "giant viruses" (bionts) can be quickly and easily photographed in large numbers in the electron microscope and their degree of purity documented. The isolation and photography of isolated and characterized structures has never been successful with any of the alleged pathogenic viruses! Bionts (alias phages and giant viruses) are regularly seen and photographed in large numbers under the electron microscope in the organisms through which they are produced or which produce them (sic!). On the other hand, the photography of structures in the electron microscope, which are claimed to be disease-causing viruses, has not been successfully documented in any human being, animal, plant or in liquids from them, such as blood, semen, saliva etc., to date! Why is this not the case?

The electron microscopic images of alleged viruses show only structures that are always

obtained from completely different sources. These structures have never been isolated, neither biochemically characterized nor used as a source for the short pieces of nucleic acids, from which virologists ONLY THEORETICALLY construct a long nucleic acid, which is then passed off as the alleged genetic strand of a virus.

From all types of "phages" and "giant viruses", nucleic acids of exactly the same length and exactly the same composition can be obtained. Never before has it been possible to isolate a nucleic acid (DNA or RNA) from a structure or from a liquid whose length and composition would correspond to what virologists claim to be the genetic strand of a disease-causing virus.
Why and for what reason the virologists have completely lost themselves in an anti-scientific approach that is completely removed from reality and dangerous becomes clear through the sequence of what happened between 1951 and December 10, 1954. After medical virology had been taken care of by control experiments in 1951, the phages of bacteria became the model for the persistent ideology of what "pathogenic viruses" should look like: a nucleic acid of a certain length and composition, surrounded by a shell consisting of a certain number of certain proteins.

But: lack of electron microscopic pictures of "disease-causing viruses" in humans/animals/plants, lack of electron microscopic pictures of "disease-causing viruses" in isolated form, lack of biochemical characterization of the components of "disease-causing viruses", Due to the lack of isolation, virologists have been and still are forced to assemble individual components of supposedly "virally" diseased tissue into viruses in their thoughts and graphics and to fake these intellectual products for themselves and the public as existing viruses! !

The virologists who claim that viruses cause illness refer centrally to a single publication with which they justify what they do and pass it off as scientific. This is easily recognized as insane and anti-scientific. The authors, who published these considerations on June 1, 1954, have explicitly described their observations as speculations that have been refuted in themselves and that will only be verified in the future. To this day, this future verification has not taken place, because the first author of this study, Prof. John Franklin Enders, was awarded the Nobel Prize for Medicine on December 10, 1954. He received the Nobel Prize for another speculation within the old, in 1951 disproved "Viruses are dangerous protein-toxins" theory. The Nobel Prize had two effects: The old, disproved toxin-virus-theory got a pseudo-scientific nimbus and the new gene-virology the highest, apparently scientific honor.

The new genetic virology from 1952 onward had two central basic principles: viruses that cause disease are in principle structured like phages and they would be created when cells die in the test tube after supposedly infected sample material is added to them. Enders and his colleagues, with their only publication from June 1, 1954, developed the idea that cells that die in the test tube after supposedly infected material is added would turn into viruses. This dying is simultaneously issued as isolation of the virus - because supposedly something is brought into the laboratory from outside -, and the reproduction of the suspected virus and the dying cell mass is used as a vaccine. Enders, his colleagues and all virologists overlooked - because of the Nobel Prize's blindness - that the death of the cells in the laboratory is not caused by a virus, but because the cells are unintentionally and unnoticed but systematically killed in the laboratory.By poisoning with cell-toxic antibiotics, by extreme starvation by means of withdrawal of the nutrient solution and by the addition of decomposing proteins, which release toxic metabolic products.

Components from such cells dying in the laboratory are still today mentally combined to a virus and presented as reality. The virology of disease-causing viruses is as simple as this. Enders and the "virologists" have never, until today, carried out control experiments to "infect" the cells in the laboratory with sterile material. They die in the control experiment in exactly the same way as with supposedly "viral" material.

Short, clear and easily comprehensible explanation of the claims of all viruses that cause illness

Error and self-deception are human, comprehensible and excusable. What is not excusable are the constant claims of virologists that their statements and their actions are scientific. That is clearly wrong, easily provable and comprehensible for everyone. Therefore the virologists who claim corona viruses or other pathogenic viruses are to be called employment fraudsters and prosecuted by legal means so that they retract their false, disproved and dangerous statements. Thus, the Corona crisis and other "viral" disasters with resulting deadly consequences such as "AIDS", „Ebola" and other unfounded "viral" pandemics can and will not only be stopped, prevented in the future, but turned into an opportunity for all.

The definition of what can be called a scientific statement and the resulting obligations are clearly defined. Summarized:

A. Every scientific statement must be verifiable, comprehensible and refutable.

B. Only if the refutation of a scientific statement by laws of thought, logic and, if applicable, by control experiments has not succeeded, a statement may be called scientific.

C. Every scientist is obliged to check and question his statements himself.

Because virologists have never done this themselves and for understandable reasons are reluctant to do so - who wants to refute themselves, who wants to refute their actions, who wants to refute their own reputation - we do this publicly with seven arguments. Every single argument alone is sufficient to refute the existence claims of all "pathogenic viruses" and this is what virologists of this discipline do (except for researchers who deal with the existing "phages" and "giant viruses"). in the following points the word "virus" is used instead of the word combination "pathogenic virus".

1. The fact of Alignment

Virologists have never isolated a complete genetic strand of a virus and displayed it directly, in its entire length. They always use very short pieces of nucleic acids, whose sequence consists of four molecules to determine them and call them sequences. From a multitude of millions of such specific, very short sequences, virologists mentally assemble a fictitious long genome strand with the help of complex computational and statistical methods. This process is called alignment.

The result of this complex alignment, the fictitious and very long genetic strand, is presented by virologists as the core of a virus and they claim to have thus proven the existence of a virus. However, such a complete strand never appears in reality and in scientific literature as a whole, although the simplest standard techniques have long been available to determine the length and composition of nucleic acids simply and directly. By the fact of the alignment, instead of presenting a nucleic acid of the appropriate length directly, the virologists have disproved themselves.

2. The fact of the lack of control experiments for alignment

Virologists have never performed and documented an alignment using equally short nucleic acids from control experiments.To do this, they MUST isolate the short nucleic acids from the exact same cell culture procedure, with the difference that the suspected "infection" does not occur by adding supposedly "infected" samples, but with sterile materials or sterilized samples that have been "control-infected".

These logical and mandatory control experiments have never been performed and documented.The virologists alone have thus proven that their statements have no scientific value and must NOT be passed off as scientific statements.

3. Alignment is only done by means of mental constructs

In order to be able to mentally/computationally assemble the very short sequences of the nucleic acids used into a long genome, the virologists need a template to align the short sequences into a very long, supposedly viral genome strand. Without such a given, very long sequence, it is not possible for a virologist to construct a viral genome theoretically/computationally. Virologists argue that the constructed genome is from a virus because the alignment was done with another, given viral genome.

This argument of the virologists is briefly and unambiguously refuted by the fact that all templates with which new genetic material strands were generated theoretically/computationally were themselves and finally generated theoretically/computationally and do not originate from a virus.

4. Viruses have never been seen in a human/animal/plant or in liquids thereof

Virologists claim that infectious, i.e. intact viruses are supposed to be present in large numbers in blood and saliva. That is why, for example, in the Corona crisis, all people wear a mask. To date, however, not a single virus has been photographed in saliva, blood or other places in human/animal/plant or fluids, although electron microscopic imaging is now an easy and routine standard technique.
This unambiguous and easily verifiable fact alone, that there are no images of viruses in human/animal/plant or liquids from it, disproves all virus allegations. something that has never been seen in human/animal/plant or liquids from it must not be given as a scientifically proven fact.

5.The composition of the structures that are claimed to be viruses has never been biochemically characterized

There are two different techniques that virologists use to create photos of alleged viruses. For transmission electron microscopy, they use cell cultures which they embed in synthetic resin, scrape into thin layers and look through. Particles that they show in such images have never been isolated and their composition has never been biochemically determined. After all, all proteins and the long genome strand that is attributed to the viruses would have to be found. Neither that, nor the isolation of such embedded particles and the biochemical characterization of their composition appear in a single publication by virologists. This refutes the virologists' claim that such recordings are viruses.

The other method used by virologists to photograph viruses under the electron microscope is the simple and fast observation electron microscopy known as negative staining. In order to concentrate actually existing structures, such as "phages" and "giant viruses", and to separate them from all other components, which is then called "isolation", a standard technique is used, the density-gradient centrifugation. The visibility of presence, appearance and purity of these isolated structures in the electron microscope is achieved by coating these particles with a metal-containing substance and making the underlying structures appear as shadows in the electron beam. The other part of the isolated particles, which were made visible by "negative staining", is biochemically characterized. In the case of all phages and giant viruses, the nucleic acids are always found to be intact, always the same, always very long and composed in the same way and the results of the biochemical characterization are documented.

in the case of all viruses, which are issued as viruses by means of this technique, the "negative staining", the following has been done. These particles are not enriched, purified and isolated by the density-gradient centrifugation provided for this purpose, but sedimented by simple centrifugation on the bottom of the centrifuge tube, which is called "pelleting" and then observed under the electron microscope. The composition of such structures, which are presented as viruses, has never been determined biochemically until today. With this easily verifiable and comprehensible statement based on all publications of virologists, in which structures are identified as viruses by means of the electron microscope, the virologists have also disproved this argument of the existence of viruses in a simple and elegant way - without noticing it.

6. Electron microscopic images, which are output as viruses, are known typical artifacts or cell-specific structures

Virologists publish a large number of electron microscopic images of structures that they pass off as viruses. They do not mention the fact that ALL of these images are typical structures of dying cell cultures or are laboratory-produced protein-fat soap bubbles and have never been photographed in human/animal/plant or liquids from them.

Researchers other than virologists refer to the same structures that virologists present as viruses as either typical cell components such as villi (amoeba-like protuberances with which cells cling to the surface and move around), exosomes or "virus-like particles". This is a further, independent proof that the virologists' statements that viruses can be seen under the electron microscope have been scientifically disproved.

7. the animal experiments of the virologists refute the virus-existence assertions

Virologists carry out animal experiments to prove that the substances they work with are viruses and can cause diseases. It is clear from every single publication in which such animal experiments have been conducted that the way the animals are treated produces exactly the symptoms that are claimed to be caused by the virus. In each of these publications, it is clear that no control experiments have been performed where the animals would have been treated in the same way with sterilized starting material.

These two openly stated facts refute the virologists who claim that they detected the

presence and effect of viruses in animal experiments.

Concluding remark

Now, in order to end the Corona crisis and turn it into an opportunity for all, it is necessary to make these clear, easily comprehensible and verifiable refutations of the virology public and effective.These refutations become effective, for example, when the appropriate legal remedies against virologists are applied in the judiciary and the results are made public. These refutations become effective, for example, when the appropriate legal remedies against virologists are applied in the judiciary and the results are made public. We will inform you via our WissenschafftPlus mailing list when we have results that are ready for decision.

I guarantee with my name that anyone who wants to check these statements on any "disease-causing virus" will come to exactly the same conclusions if he/she is able to read the methods. Precautionary note: As long as the corona crisis continues, my colleagues and I will only answer inquiries regarding alleged so-called corona and measles viruses. For inquiries about all other "viruses", I refer during the Corona period to the articles on this subject published in the magazine WissenschafftPlus since 2003.
Please do not only keep in mind that the decision in the measles trial, which was confirmed by the highest court of law, has deprived the entire virology of its basis. It has been established by a court of law and is therefore part of the German jurisdiction that the publication of the central method of virology from June 1, 1954, in which the unintentional and unnoticed killing of cells in the laboratory was published as proof of the existence of disease-causing viruses, no longer constitutes proof of the existence of a virus from the year 2016!

The Corona crisis has increased the chance that the origins of the measles virus process alone can bring about the turnaround from the good-evil thinking and acting that dominates biology, medicine, society and the state today. In my opinion, the application of one, several or all seven of the above-mentioned arguments to SArS-CoV-2 may be enough to end the predictable dynamics of the global corona hysteria and the business dealings that are greasing it with tests and vaccines. Here you can find a very good summary of the facts about the importance of the measles virus process and also other texts that are very good.

My optimism that the Corona crisis will prove to be a chance for everyone is based in § 1 of the infection protection laws, abbreviated ifSg. in § 1 ifSg "Purpose of the law" is stated in sentence (2): "The necessary cooperation and collaboration of federal, state and local authorities, doctors, veterinarians, hospitals, scientific institutions and other parties involved shall be designed and supported in accordance with the current state of medical and epidemiological science and technology. The personal responsibility of the owners and managers of community facilities, food processing plants, health care facilities and individuals in the prevention of communicable diseases is to be clarified and promoted.

All corona measures and ordinances, including corona laws, are based exclusively and solely on the German Infection Protection Act (IfSg). However, since the "target provision in § 1 ifSg "is to be designed and supported according to the current state of medical and epidemiological science and technology" has been refuted and proven anti-scientific by the published statements of the virologists themselves, all corona measures, regulations and ordinances lack the legal basis to be applied.

None of the institutions and managers of community facilities, food processing plants, health care facilities and individuals mentioned in § 1, sentence (2), i.e. every

citizen who is addressed by law, may carry out and tolerate corona measures and regulations if they have recognized and can prove that virologists have no scientific evidence for the existence of disease-causing viruses, but have disproved themselves through their own actions and publications.

As long as the obligation to scientificity in § 1 ifSg is maintained, it is possible with reference to § 1 ifSg to present before courts the evidence of the groundlessness, lack of rights, harmfulness and immorality of all corona measures, regulations and laws with success. The majority of the judges are honest and conscientious, following the law, because otherwise an open dictatorship would have been ruling this country for a long time, which wants to build up an ever more visible, pseudo-scientific and disproved virology and medicine.

Please keep the following in mind: The majority of the population believes in the existence, the effects of disease-causing viruses and in the positive effects of vaccines. To put it very drastically: Those who believe in cancer as the effect of a misunderstood principle of evil also believe in metastases, believe in "flying metastases", alias viruses. The directly and indirectly experienced suffering of almost every human being with the negative consequences of cancer diagnoses and their severe treatments is profound and effective. Please take into account that only this direct and indirect experience of suffering has created and strengthened the feeling and certainty in people that there are dangerous and deadly diseases and viruses. Please note that from such and other experiences the view can result that only our state and its specialists are able to deal with it and are allowed to handle it. In this way you can avoid that your actions have the opposite effect. This is especially important when dealing with doctors, which we all need.

I, for example, explain to every questioning person that there is a better system of knowledge that (in a positive sense) scientifically explains those processes that lead to illnesses and healing and that healing crises can occur and healing obstacles can work. In order to be able to accept this new view, however, it is often a prerequisite that the previous system of explanation based on the doctrine of the cells is recognized as refuted. The Corona crisis is a unique opportunity and a clear call to stand up for life and the three universal human ideals of freedom, equality and fraternity, i.e. the social threefold division of human communities. (See the article in this issue of w+ 4/2020, "The Social Tripartite Division").
This contribution is printed in our book "Corona - Further into Chaos or Chance for All? See the book review on page 46 in this issue of w+.

The source information for this article can be found in:

"Misinterpretation Virus part i" in the magazine WissenschafftPlus No. 1/2020

"Misinterpretation virus part ii" in the magazine WissenschafftPlus No. 2/2020

This contribution and the contribution "development of medicine and mankind - how does it go on?" in the magazine WissenschafftPlus No. 6/2015, you can find freely on the Internet www. wissenschafftplus.de and here "important texts introduction to a new perspective on life part i to iii. To be found in the issues no. 1, 2 and 3/2019 of WissenschafftPlus.
Understanding water, recognizing life. Pi-water: More than just energized H2O. SciencePlus No. 6/2018. This contribution is to be found freely on our Internet side www.science schafftplus.de in the column "important texts".

Open letter to the UK Government, Governments of the World and the Citizens of the World

We the undersigned call upon the UK government, governments of the World and the Citizens of the World, to stop all lockdown measures immediately.

Introduction

We were told initially that the premise for lockdown was to 'flatten the curve' and therefore protect the NHS from being overwhelmed.

It is clear that at no point was the National Health Service (NHS) in any danger of being overwhelmed, and since May 2020 covid wards have been largely empty; and crucially the death toll from covid has remained extremely low.

We now have hundreds of thousands of so-called 'cases', 'infections' and 'positive tests' but hardly any sick people. Recall that four fifths (80%) of 'infections' are asymptomatic (1) Covid wards have been by and large empty throughout June, July, August and September 2020. Most importantly covid deaths are at an all-time low. It is clear that these 'cases' are in fact not 'cases' but rather they are normal healthy people.

So-called asymptomatic cases have never in the history of respiratory disease been the driver for spread of infection. Rather it is symptomatic people who spread respiratory infections - not asymptomatic people.(2)

It is also abundantly clear that the 'pandemic' is basically over and has been since June 2020. (3)

We have reached 'herd' immunity and therefore have no need for a vaccine.

We have safe and very effective treatments and preventative treatments for covid, we therefore call for an immediate end to all lockdown measures, social distancing, mask wearing, testing of healthy individuals, track and trace, immunity passports, the vaccination program and so on.

There has been a catalogue of unscientific, non-sensical policies enacted which infringe our inalienable rights, such as - freedom of movement, freedom of speech and freedom of assembly. These draconian totalitarian measures must never be repeated.

Lockdown

- Covid has proved less deadly than previous influenza seasons – There were 50,100 flu deaths from December 2017 to March 2018 in England and Wales. There were 80,000 flu deaths in 1969. To date we have circa 42,000 covid related deaths in the UK.

- We have never locked down society for a respiratory virus before.

- The basis for lockdown was a mathematical model by Professor Neil Ferguson. His modelling which predicted half a million deaths in the UK has been roundly condemned as being not fit for purpose. His estimated death figures were clearly wrong by a factor of 10 or 12 times. (1)

- Professor Ferguson's modelling was not even peer reviewed before being acted upon by several nations. Eminent epidemiologists such as Professor Gupta from Oxford University were ignored, they estimated the death count would be far lower in the UK.

- Professor Ferguson has a long track record of woeful modelling he was entirely wrong about sars, mers, mad cow's disease (CJD), and swine flu. Why did the world listen to him again? (2)

- Countries which did not lock down Sweden, Japan, Taiwan, South Korea and Belarus have all done significantly better than us in terms of percentage of population deaths. They also have herd immunity and intact economies.

- Lockdown did not save lives, and this has been published in the Lancet '....in our analysis, full lockdowns and wide-spread COVID-19 testing were **not** associated with reductions in the number of critical cases or overall mortality.' (3)

- The vast majority of deaths occurred in elderly and very elderly people

- The vast majority of deaths occurred in people with pre-existing serious health issues such as cancer, cardiovascular disease, Alzheimer's, diabetes etc

- Covid poses virtually zero risk to the under 45's who have more chance of being struck by lightning than dying from covid.

- Covid poses a very small risk for healthy under 60 year olds who have a greater chance of accidental drowning than dying from covid.

- The entire nation was essentially placed under house arrest. We have never isolated the healthy before.

- Isolating the sick and those who are immunocompromised makes sense. Isolating the healthy has hampered the establishment of herd immunity and makes no sense.

- To put it into perspective we had 115,000 smoking related deaths in the UK in 2015 compared to the 42,000 deaths from covid.

- We usually have around 600,000 deaths every year in the UK, roughly 1600 deaths per day.

<u>Collateral damage the cure is worse than the virus</u>

- Placing the public under virtual house arrest has caused untold damage to both physical and mental health.(1)

- Ventilating patients instead of oxygenating patients proved to be a deadly policy and an unwarranted failure. Ventilation resulted in many unnecessary deaths. (2)

- Sending infected people from hospitals to care homes placed the elderly and frail under unnecessary risk and resulted in many unnecessary deaths. (3)

- Blanket Do Not Resuscitate (DNR) orders were imposed on thousands of people without their consent nor the consent of their families – this is both unlawful and immoral and lead to unnecessary deaths in care homes. (4)

- Hospitals became essentially ‘covid only’ centres vast numbers of patients were wilfully neglected, resulting in many thousands of unnecessary deaths. (5)

- The government’s own report estimates that some two hundred thousand (200,000) people will die as a direct result of lockdown – not the virus. Hospitals being closed, suicide and poverty will result in more deaths than the virus. (6)

- The cure is worse than the disease!

Death certificates (1)

- The majority of people who died had significant comorbidities, such as Alzheimer’s, cancer, cardiovascular disease and diabetes.

- Counting death certificates with a ‘mention’ of covid as being a death caused by covid is a gross misrepresentation of the facts and has vastly over exaggerated the death toll.

- The rules for the signing of death certificates have been changed solely for covid by the Coronavirus 2020 Act.

- Doctors do not even need to have physically seen the patient in order to sign death certificates.

- The Act has removed the need for a confirmatory medical certificate for cremations.

- Autopsies have virtually been banned, no doubt leading to misdiagnosis of the true cause of deaths; and also reducing our understanding of the disease itself.

- Worse still, care home staff who largely have no medical training are able to give a statement as to the cause of death.

- Covid was put on death certificates merely on the 'suspicion' of people having covid. This may well be unlawful, since it is a crime to falsify death certificates.

- People who die within 28 days of a positive pcr test are deemed to have died from covid, even if they die in a car crash or from a heart attack; clearly over inflating the death toll (2)

Economic ruin

- Reports now estimate that as many as six and a half million (6,500,000) people in the UK will lose their jobs as a result of lockdown. (1)

- It is well known that poverty directly adversely affects health, we can expect to see many people suffering with poor health and resulting in many premature deaths, as a direct result of lockdown.

Censorship

- Government have acted maliciously in censoring doctors, nurses and NHS staff. The people have the perfect right to hear what is going on in hospitals, and the medical profession have a duty to look after the public and to reassure them. (1)

- The medical profession have not been allowed to let the public know that covid wards have been empty for months, nor that covid deaths have reached an all-time low for months, and this has unnecessarily added to the public's distress and anxiety.

- Doctors and scientists with views that differ from the government narrative have had their videos and articles removed from the internet

Testing - False positives

- PCR tests cannot be verified for accuracy as there is no 'gold standard' against which to check them. The virus has not been purified. (1)

- PCR tests cannot detect viral loads and are prone to false positives. (2)

- A positive PCR test does not mean that an individual is infected nor infective. (3)

- In fact approximately 90% of the PCR positive 'cases' are false positives. We therefore have no second wave and no pandemic. (4 , 5)

- The government's report estimates a false positive rate of between 0.8 to 4.0 % using data from other viral infections – not from covid (6)

- Viral fragments may remain in people's bodies for several weeks following recovery from infection. (7)

- The crisis will never end if we are waiting for zero positive tests. Everyone has probably had a cold caused by a coronavirus and will likely have a few viral fragments matching those of the cousin SARS-CoV-2 virus (8)

- Testing healthy asymptomatic individuals is non-sensical, unscientific and a colossal waste of money. The governments moon shot daily testing program will cost £100 Billion roughly two thirds of the annual NHS budget.

- Antibody testing is not the gold standard as many people have T-cell immunity, and antibodies may not circulate following recovery from infection.

Hydroxychloroquine

- The controversial drug Hydroxychloroquine (HCQ) has been unfairly smeared, by the WHO, CDC, NIH and the media.

- However HCQ has very firm support from, amongst others: Professor Harvey Risch epidemiologist from Yale, The American Association of Physicians and Surgeons (AAPS), American Frontline Doctors, the Henry Ford Health System and Professor Didier Raoult microbiologist and infectious disease specialist - to name but a few. (1)

- The Lancet was even forced to retract a study on HCQ after it was revealed by the Guardian newspaper that they had been completely fabricated and written by a sci-fi writer and a porn star. Even following this astounding revelation HCQ was still banned in most countries. (2)

- HCQ according to AAPS has a ninety per cent (90%) cure rate when given early and alongside zinc (3)

- HCQ is safer than many over the counter drugs such as aspirin, Benadryl and Tylenol.

- The AAPS also point out that there has never been a vaccine as safe as HCQ. (4)

- HCQ has been licensed for over sixty years and has been safely used by billions of people worldwide. There is a very small risk of arrythmia which is easily monitored.

- Why was HCQ banned then? Could it be that there are no huge profits to be made from this out-of-patent drug?

- HCQ was used to great effect in the Sars1 outbreak of 2005 (5)

- In short had HCQ been available then there would not have been a pandemic !

Prevention

- Preventative measures such as hydroxychloroquine or vitamins D, C and zinc should have been recommended for the public. (1)

- Early calcifediol (25-hydroxyvitamin D) treatment to hospitalized COVID-19 patients significantly reduced intensive care unit admissions (2)

- Vit D reduces the severity of covid. (2,3)

- Voluntary isolation of the frail - should they so choose; in combination with preventative measures would have been a far better strategy. The rest of society could and should have continued as normal.

Vaccine

- A rushed vaccine is clearly not in the public's best interest

- Indemnifying vaccine manufacturers against all liability is also clearly not in the public's best interest

Conflicts of interest

- Chief Scientific Officer Sir Patrick Vallance has £600,000 worth of shares in GSK Glaxo Smith Klein. He has in recent years sold £5 million of shares in GSK which he 'earned' whilst chief of GSK (1)

- Sir Chris Whitty, Chief Medical Officer UK, accepted over £30 million in funding from the Bill and Melinda Gates foundation to study malaria vaccines. (2)

- It has become clear that members of SAGE, Public Health England (PHE), World Health Organisation (WHO), Centre for Disease Control (CDC), National institute for Health (NIH) etc have many conflicts of interests. They all accept very large 'donations' from the pharmaceutical and vaccine industry. These conflicts of interests may well have effectively corrupted their integrity. (3)

- It is also clear that governments are heavily lobbied by the pharmaceutical industry and the vaccine industry, again this may have compromised their integrity. (4)

Cui bono? Who benefits?

- Vaccine manufacturers will make trillions from this, as will track and trace manufacturers, and the pharmaceutical industry stand to make trillions from covid testing.

- Prime minister Boris Johnson announced the new 'moon shot' testing will cost £100 Billion, approximately two thirds of the annual NHS budget.

- Surely these vast sums would be far better spent on treating all of the neglected patients who have been wilfully neglected during lockdown and who now face huge waiting lists.

Conclusions

We have effective and safe treatments and preventative medications for covid, therefore there is no need for any lockdown restrictions and associated measures. The pandemic is essentially over as can be seen by the consistent low death rate and hospital admissions over the past four months.

We demand the immediate and permanent ceasing of all lockdown measures.

Lockdowns do not save lives, that is why they have never been used before. Civil liberties and fundamental freedoms have been unnecessarily removed from the public and this must never happen again.

Preventative measures such as Hydroxychloroquine, vitamin C, Vitamin D and zinc must be made readily available to the public.

Isolation must be voluntary. People are perfectly capable of making their own assessment of the risks and must be free to go about their lives as they so choose. People must have the right to choose whether to isolate or not.

Likewise, businesses must have the right to remain open if they so choose.

We demand that doctors, nurses, scientists and healthcare professionals must be permitted free speech and never be censored again.

Professor Mark Woolhouse epidemiologist and specialist in infectious diseases, Edinburgh University Member of the Scientific Pandemic Influenza Group on Behaviours, that advises the Government stated that -

'...Lockdown was a monumental disaster on a global scale. The cure was worse than the disease.'

'I never want to see national lockdown again. It was always a temporary measure that simply delayed the stage of the epidemic we see now. It was never going to change anything fundamentally, however low we drove down the number of cases,'

'We absolutely should never return to a position where children cannot play or go to school.'

'I believe the harm lockdown is doing to our education, health care access, and broader aspects of our economy and society will turn out to be at least as great as the harm done by Covid-19.'(1)

The World Doctors Alliance agree fully with Prof Woolhouse's assertions, he is right! We must never lockdown again!

NB the term 'covid' has been used to represent Sars-CoV-2 and Covid-19

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CONCLUSÃO - 11-11-2020
(Termo electrónico elaborado por Escrivão de Direito Maria do Carmo Martins Loureiro)

=CLS=

Proc. 1783/20.7T8PDL.L1

Tribunal Judicial da Comarca dos Açores - Juízo de Instrução Criminal de Ponta Delgada

Acordam em conferência na 3ª secção Criminal do Tribunal da Relação de Lisboa

*

I – RELATÓRIO

1. Por decisão de 26-08-2020, foi concedido provimento ao pedido de *habeas corpus* formulado, **por se mostrar ilegal a sua detenção**, determinando-se **a restituição imediata à liberdade dos Requerentes A., B..., C...e D....**

2. Veio então a **AUTORIDADE REGIONAL DE SAÚDE,** representada pela Direcção Regional da Saúde da Região Autónoma dos Açores apresentar recurso de tal decisão, pedindo a final que seja validado *o confinamento obrigatório dos requerentes, por serem portadores do vírus SARS-CoV-2 (C….) e por estarem em vigilância activa, por exposição de alto risco, decretada pelas autoridades de saúde (A., B... e D...).*

4. O recurso foi admitido.

5. O Mº Pº, na sua resposta, defende que o presente recurso deve ser considerado improcedente.

6. Neste tribunal, o Exº PGA após visto.

II – PONTO PRÉVIO.

Uma vez que o recurso interposto pela recorrente deve ser rejeitado, o tribunal limitar-se-á, nos termos dos n.ºs 1, alínea a), e 2 do artigo 420.º do Código de Processo Penal, a especificar sumariamente os fundamentos da decisão.

III – FUNDAMENTAÇÃO.

1. A decisão proferida pelo tribunal "a quo" tem o seguinte teor:

Factos provados:

1. Em 01/08/2020 os requerentes chegaram à ilha de São Miguel, provindos por avião da República Federal da Alemanha, onde, nas 72 (setenta e duas) horas anteriores à chegada, tinham realizado um teste ao COVID19, com resultado negativo e cujas cópias apresentaram e entregaram à Autoridade Regional de Saúde, à chegada ao aeroporto, em Ponta Delgada.

2. No dia 07/08/2020 e já durante a estada na ilha de São Miguel, as requerentes C… e D…. realizaram um segundo teste ao COVID19.

3.No dia 10/08/2020 e também já durante a estada na ilha de São Miguel, os requerentes A… e B…. realizaram um segundo teste ao COVID19.

4.No dia 08/08/2020 a requerente C… foi, por telefone, informada que o seu teste realizado no dia anterior tinha acusado "detectado".

5.A partir desse dia 08/08/2020 a requerente C…. deixou de coabitar com os restantes três requerentes, tendo sempre mantido uma distância nunca inferior a 2 (dois) metros dos mesmos.

6.No dia 10/08/2020 os requerentes A…, B…e D… foram, por telefone, informados que os seus testes tinham acusado "negativo".

7.No dia 10/08/2020 foi a todos os requerentes remetido, por via e-mail, o documento junta a fls. 25, 25verso, 26 e 26 verso, assinado pelo Delegado de Saúde do concelho da Lagoa, em exercício de funções, F…, denominado Notificação de Isolamento Profiláctico – Coronavírus SARS-CoV-2/Doença COVID – 19, e dois anexos (apenas um deles em língua inglesa) e no qual se lê (teor igual à excepção da identificação de cada um dos ora Requerentes):

"Isolation (...)

Notificação de

Isolamento Profilático

Coronavírus SARS- CoV-2/Doença COVID – 19

Mário Viveiros Silva Autoridade de Saúde de Lagoa

Nos termos das Circulares Normativas n.s DRSCINF/2020/22 de 2020/03/25 e DRS CNORM2020/39B de 2020/08/04 da AUTORIDADE REGIONAL DE SAÚDE (em anexo) e da Norma n.º 015/2020, de 24/07/2020 da Direcção Geral de Saúde (em anexo) determino o

ISOLAMENTO PROFILÁCTICO

DE

(...)

Portador do Cartão de Cidadão/PASSAPORTE N.º (...), com validade ... até ...com o número de identificação de segurança social pelo período de 08/08/2020 a 22/08/2020 por motivo de perigo de contágio e como medida de contenção de COVID 19 (SARS-Cov-2)

Data 2020/08/10 (...)

8.Os Requerentes solicitaram que lhe enviassem os ditos resultados, tendo sido remetido o relatório do teste feito às Requerentes C… e D… por via e-mail no dia 13/08/2020 e aos Requerentes A… e B… no dia de ontem, 24/08/2020, por via e-mail, relatórios estes redigidos em língua portuguesa.

9.Entre os dias 01 e 14 de agosto os requerentes estiveram acomodados no alojamento Marina Mar II, em Vila Franca do Campo.

10.De 14 de agosto em diante os requerentes estão acomodados no "THE LINCE AZORES GREAT HOTEL, CONFERENCE & SPA", em Ponta Delgada (onde actualmente se encontram), por ordem do Delegado de Saúde nos termos descritos em 7 do seguinte modo:

- No quarto 502 encontram-se os requerentes A… e B….

- No quarto 501 encontra-se a requerente C….

- No quarto 506 encontra-se a requerente D….

11.Os requerentes tentaram pelo menos por 3 vezes contactar a linha de apoio telefónico que conhecem (296 249 220) para serem esclarecidos na sua língua ou, ao menos, na língua inglesa, mas nunca tiveram qualquer sucesso, uma vez que apenas atendem e respondem na língua portuguesa, que os requerentes não entendem.

12.No hotel, as refeições são entregues no quarto, pelos serviços do hotel, a horas pré-determinadas e de acordo com uma escolha feita por terceiros, a não ser durante os primeiros 3 dias no Hotel Lynce em que foram servidos pequenos-almoços e as restantes refeições através de room service.

13.No dia 15 de agosto, enquanto cumpria o isolamento profiláctico determinado pelo Delegado de Saúde, a requerente C… passou a padecer de uma inflamação na boca, aparentemente resultante do aparelho dentário que usa.

14.Tendo, pelo telefone, para o número 296 249 220, partilhado essa situação com a Autoridade Regional de Saúde, a quem solicitou o necessário suporte médico.

15.Este pedido foi ignorado pela referida linha de apoio, que não proporcionou à requerida C… o necessário apoio.

16.Não vislumbrando qualquer apoio, dois dias mais tarde, a 17 de agosto, devidamente protegida por máscara e luvas, a requerente B…saiu do seu quarto, dirigiu-se à farmácia mais próxima do hotel, onde adquiriu uma pomada para debelar temporariamente a situação referida, tendo regressado imediatamente ao hotel e ao seu quarto.

17. .No dia 19/08/2020 foi remetido pelo Delegado de Saúde, G…., aos Requerentes email, onde nomeadamente se lê:

"(...) A C…. só é dada como curada após ter um teste negativo e um 2.º teste de cura negativo, quando isso acontecer a delegação de saúde entrará em contacto (...) (sic).

18.No dia 21/08/2020 foi transmitido aos quatro requerentes, pelo Delegado de Saúde G…., por via de correio electrónico a seguinte mensagem: "A saber, quando acabarem a quarentena têm de fazer teste e se este for negativo podem sair de casa" (sic).

19.Nesse mesmo dia 21 de agosto o requerente A…. questionou o referido médico e Delegado de Saúde, Dr. João Martins Sousa, por mensagem de correio electrónico que remeteu, o seguinte (traduzido para a língua portuguesa em regime livre):

"Caro Dr. G….,

Já fizemos dois testes COVID / pessoa, todos foram negativos (A…, B…. e D….)). ..e depois disso passamos 2 semanas em isolamento, e nenhum de nós acusa qualquer sintoma!!

Temos os documentos do Dr. G…., confirme.

Ninguém nos disse alguma coisa sobre os novos testes após o tempo de isolamento?!

Já remarcamos os nossos voos e planeamos deixar a ilha.

Explique o motivo da sua declaração.

Por que não foi feito ontem o teste COVID de C…."

20.Os requerentes não receberam qualquer resposta a esta mensagem de correio electrónico, à excepção da Requerente C…. a quem foi comunicado agendamento de realização de novo teste de despiste, em concreto, para o próximo dia 29/08/2020.

21.No dia 20/08/2020 a requerente C…. realizou um terceiro teste ao COVID19, tendo no dia seguinte (21/08/2020), apenas por telefone, sido informada que o resultado tinha acusado "detectado".

22.A requerente C…. solicitou que lhe enviassem uma evidência escrita desse resultado positivo, o que lhe foi enviado por via e-mail no dia de ontem, dia 24/08/2020.

23.Os Requerentes questionaram os funcionários da recepção do hotel onde se encontram, tendo-lhes sido dito que nenhum dos quatro requerentes, sem excepção, poderá ausentar-se dos quartos.

24.Os requerentes não apresentam, nem nunca apresentaram, qualquer sintoma da doença (febre, tosse, dores musculares, espirros, falta de olfacto ou palato).

25.Aos requerentes não foi explicado o conteúdo dos dois documentos que lhe foram remetidos com os escritos elencados no ponto 7.

26.Os requerentes têm residência habitual na República Federal da Alemanha, identificada nestes autos.

Fundamentação:

A questão que aqui se coloca, assente que os Requerentes se encontram privados da sua liberdade (desde o passado dia 10 de agosto até à presente data, conforme decorre dos factos provados) e, consequentemente, podendo socorrer-se do presente instituto do habeas corpus - como passaremos a expor –, reconduz-se a saber se existe ou não fundamento legal para esta privação da liberdade.

Com efeito, sem questionar sequer a constitucionalidade orgânica da Resolução do Conselho do Governo Regional nº 207/2020, de 31 de Julho de 2020, actualmente em vigor no âmbito dos procedimentos aprovados pelo Governo dos Açores na contenção da disseminação do vírus SARS-COV-2 nesta Região Autónoma, na situação em apreço a detenção/confinamento dos Requerentes desde o passado dia 10 de agosto encontra-se materializada por uma comunicação realizada por via e-mail, em língua portuguesa, nos termos dados como provados sob o ponto 7.

Ora, conforme resulta do referido ponto 7 dos factos provados, a autoridade de saúde regional, por meio do respectivo Delegado de Saúde da área territorial onde os Requerentes se encontravam hospedados, determinou o isolamento profiláctico destes ao abrigo das Circulares Normativas n.s DRSCINF/2020/22 de 2020/03/2025 e DRS CNORM2020/39B de 2020/08/04 da AUTORIDADE REGIONAL DE SAÚDE e da Norma n.º 015/2020, de 24/07/2020 da Direcção Geral de Saúde. E, foi através de uma comunicação com a aludida sustentação, saliente-se, em circulares normativas e uma norma da Direcção Geral de Saúde, que a Autoridade Regional de Saúde privou os Requerentes da sua liberdade, porquanto dos factos provados deriva à saciedade que estes, no rigor dos conceitos, estiveram detidos do dia 10 ao dia 14 de Agosto de 2020 num empreendimento hoteleiro em Vila Franca do Campo e do dia 14 de agosto de 2020 até à presente data confinados, e portanto detidos, em quarto de hotel nesta cidade de Ponta Delgada. Não podemos olvidar, até

porque sobressai do elenco dos factos provados, que o poder de circulação e direito de mobilidade dos Requerentes – ou de qualquer outro individuo que se encontre em idêntica situação - estão de tal modo limitados que a primeira saída dos quartos onde se encontram foi para se deslocarem a este tribunal e prestar declarações (com excepção da deslocação à farmácia da Requerente B…. em claro desespero para acudir às dores da sua filha nos termos provados).

Em suma, analisada a factualidade apurada é inexorável concluir que estamos perante uma verdadeira privação da liberdade pessoal e física dos requerentes, não consentida pelos mesmos, que os impede não só de se deslocar, como de estar em família, vivendo há cerca de 16 dias separados (os requerentes A… e B… e a sua filha, aqui Requerente, C…) e, no caso da Requerente D…. totalmente sozinha, sem qualquer contacto físico seja com quem for. Dizer que não há privação da liberdade porque a qualquer momento podem ausentar-se dos respectivos quartos, em que se encontram é uma falácia, bastando atentar às comunicações que lhes foram efectuadas após o dia 10 de agosto, nenhuma delas na língua alemã, e as condições em que têm vivido (não se descurando que se tratam de cidadãos estrangeiros com a barreira linguística inerente) ou solicitar o seu regresso ao local de origem é uma falácia, e, para tal conclusão basta atentar às últimas comunicações efectuadas em português, sublinhe-se da qual se destaca a dada como provada sob o ponto 8, em concreto "A saber, quando acabarem a quarentena têm de fazer teste e se este for negativo podem sair de leia-se casa como o hotel onde se encontram confinados em 3 quartos.

Logo, encontrando-se os Requerentes privados da sua liberdade, perante as circunstâncias provadas, cumpre traçar o caminho em que nos movemos, iniciando o percurso pelo farol norteador do sistema legislativo português: a Constituição da República Portuguesa.

Assim, no plano da hierarquia das normas, impõe-se relembrar que, conforme dispõe o artigo 1° da CRP, "Portugal é uma República soberana, baseada na dignidade da pessoa humana e na vontade popular e empenhada na construção de uma sociedade livre, justa e solidária.". Daí se retira, de modo inequívoco, que a unidade de sentido em que radica o nosso sistema de direitos fundamentais se estriba na dignidade humana – o princípio da dignidade da pessoa humana é a referência axial de todo o sistema de direitos fundamentais.

Um deles, dos mais relevantes atenta a sua natureza estruturante do próprio estado democrático, é o princípio da igualdade, previsto no artigo 13º, da CRP, onde se dispõe, no seu nº 1, que "Todos os cidadãos têm a mesma dignidade social e são iguais perante a lei.", acrescentando o n° 2, que "Ninguém pode ser privilegiado, beneficiado, prejudicado, privado de qualquer direito ou isento de qualquer dever em razão de ascendência, sexo, raça, língua, território de origem, religião, convicções políticas ou ideológicas, instrução, situação económica, condição social ou orientação sexual.".

E, no que aqui importa particularmente, sob a epígrafe "direito à liberdade e à segurança" dispõe o artigo 27°, n° 1, da CRP, "Todos têm direito à liberdade e à segurança", referindo José Lobo Moutinho, em anotação a tal artigo, que "A liberdade é um momento

absolutamente decisivo e essencial - para não dizer, o próprio e constitutivo modo de ser – da pessoa humana (Ac. n° 607/03: "exigência ôntica"), que lhe empresta aquela dignidade em que encontra o seu fundamento granítico a ordem jurídica (e, antes de mais, jurídico-constitucional) portuguesa (artigo 1º da Constituição). Pode dizer-se, nesse sentido, a pedra angular do edifício social" (Ac. n° 1166/96)" (aut.cit., in op. Cit., pág. 637).

*Não sendo a liberdade humana unidimensional, podendo assumir múltiplas dimensões, do que são exemplo os artigos 37º e 41º, da CRP, a liberdade em causa no artigo 27º, é a liberdade física, entendida como liberdade de movimento corpóreo, de ir e vir, a liberdade ambulatória ou de locomoção, prevendo-se no nº 2 deste último artigo que "**Ninguém pode ser total ou parcialmente privado da liberdade, a não ser em consequência de sentença judicial condenatória pela prática de** acto punido por lei com pena de prisão ou de aplicação judicial de medida de segurança." – **nosso sublinhado.***

As excepções a tal princípio encontram-se tipificadas no nº 3, o qual dispõe que:

*"**Exceptua-se deste princípio a privação da liberdade, pelo tempo e nas condições que a lei determinar, nos casos seguintes:***

a)Detenção em flagrante delito;

b)Detenção ou prisão preventiva por fortes indícios de prática de crime doloso a que corresponda pena de prisão cujo limite máximo seja superior a três anos;

c)Prisão, detenção ou outra medida coactiva sujeita a controlo judicial, de pessoa que tenha penetrado ou permaneça irregularmente no território nacional ou contra a qual esteja em curso processo de extradição ou de expulsão;

d)Prisão disciplinar imposta a militares, com garantia de recurso para o tribunal competente;

e)Sujeição de um menor a medidas de protecção, assistência ou educação em estabelecimento adequado, decretadas pelo tribunal judicial competente;

f)Detenção por decisão judicial em virtude de desobediência a decisão tomada por um tribunal ou para assegurar a comparência perante autoridade judiciária competente;

g)Detenção de suspeitos, para efeitos de identificação, nos casos e pelo tempo estritamente necessários;

h)Internamento de portador de anomalia psíquica em estabelecimento terapêutico adequado, decretado ou confirmado por autoridade judicial competente."

Por fim, cumpre relembrar que, havendo privação da liberdade contra o disposto na Constituição e na Lei, o Estado fica constituído no dever de indemnizar o lesado nos termos que a lei estabelecer, conforme decorre do nº 5 do artigo 27º, salientando-se que, em consonância com o art.º 3.º da CRP:

(...) 2. O Estado subordina-se à Constituição e funda-se na legalidade democrática.

3. A validade das leis e dos demais actos do Estado, das regiões autónomas, do poder local e de quaisquer outras entidades públicas depende da sua conformidade com a Constituição.

Aqui chegados, traçada o território legal, vejamos de perto o quadro em que se moveu a Autoridade Regional de Saúde na situação em análise.

Os Requerentes A., B... e D... realizaram teste de despiste ao vírus SARS-CoV-2 cujo resultado para todos foi negativo, tendo resultado o mesmo teste positivo para a Requerente C...., o que conduziu à citada ordem de isolamento profiláctico e consequente permanência destes nos termos expostos e provados.

Pelo que, perante o teor da notificação efectuada aos Requerentes este tribunal não pode deixar de expressar, ab initio, a sua perplexidade perante a determinação de isolamento profiláctico aos quatro Requerentes.

Conforme decorre da definição dada pela Direcção Geral da Saúde, "A quarentena e o isolamento, são medidas de afastamento social essenciais em saúde pública. São especialmente utilizadas em resposta a uma epidemia e pretendem proteger a população da transmissão entre pessoas. A diferença entre a quarentena e o isolamento parte do estado de doença da pessoa que se quer em afastamento social. Ou seja:

"quarentena é utilizada em pessoas que se pressupõe serem saudáveis, mas possam ter estado em contacto com um doente infectado;

isolamento é a medida utilizada em pessoas doentes, para que através do afastamento social não contagiem outros cidadãos." (em https://www.sns24.gov.pt/tema/doencas-infecciosas/covid-19/isolamento/?fbclid=IwAR34hD77oLCpxUVYJ9Ol4ttgwo4tsTOvPfIa3Uyoh0EJEbCs3jEihkaEPAY#sec-0).

Volvendo ao caso vertente, a Autoridade Regional de Saúde decidiu fazer tábua rasa de conceitos essenciais, porque delimitam o tratamento diferenciado (porque distinto, passe o pleonasmo), das situações de pessoas contagiadas e das que com esta estiveram em contacto, perante a ordem de isolamento profiláctico a todos os requerentes, apesar de apenas um deles ter resultados positivos ao aludido teste de despiste. E, mais decidiu, fazer letra morta da própria Resolução do Conselho do Governo n.º 207/2020 de 31 de Julho, imiscuindo-se à submissão obrigatória a validação judicial do tribunal competente decretada que seja quarentena obrigatória, quando deriva à saciedade dos factos provados que os Requerentes A., B... e D..., quanto muito, estão sujeitos a quarentena obrigatória.

Não o fez nas 24 horas previstas no ponto 6 da citada Resolução, nem sequer em prazo mais lato - como nas 48 horas previstas no artigo 254.º, n.º 1, alínea a), do Código de Processo Penal, ou no artigo 26.º, n.º 2, da LSM – continuando por efectuar qualquer comunicação e, por esta via, a restrição evidente da liberdade dos Requerentes A., B... e D... sempre será ilegal.

Neste passo, a citada Resolução do Conselho do Governo n.º 207/2020, de 31 de julho de 2020, prevê no seu ponto 4 que nos casos do resultado do teste ao vírus ao SARS-CoV-2 ser positivo, a autoridade de saúde local, no âmbito das suas competências, determinará os procedimentos a seguir. A Requerente C...positiva no teste de despiste do vírus em causa, foi notificada, reitere-se nos mesmos termos que os demais Requerentes, da ordem de isolamento profiláctico entre os dias 10/08/2020 a 22/08/2020.

Neste ponto, impõe-se deixar claro que a notificação efectuada conforme provado sob o ponto 7, é trazida daquilo que consta da Norma da DGS015/2020, regra a que se alude na mesma para além das circulares normativas (disponível para consulta em https://www.dgs.pt/directrizes-da-dgs/normas-e-circulares-normativas/norma-n-0152020-de-24072020-pdf.aspx),e nos diz, no que aqui interessa: (...) Contactos com Exposição de Alto Risco

15. Um contacto classificado como tendo exposição de alto risco, nos termos do Anexo 1 fica sujeito a:

a.Vigilância activa durante 14 dias, desde a data da última exposição;

b.Determinação de isolamento profiláctico, no domicílio ou outro local definido a nível local, pela Autoridade de Saúde, até ao final do período de vigilância activa, de acordo com o modelo dos Despachos n.º 2836-A/2020 e/ou n.º 3103-A/20202 (modelo acessível em http://www.seg-social.pt/documents/10152/16819997/GIT_70.docx/e6940795-8bd0-4fad-b850-ce9e05d80283)

Seguindo esta norma da Direcção Geral de Saúde, lê-se, entre o demais, na circular normativa n.º DRSCNORM/2020/39B, de 2020-08-04 (disponível para consulta em http://www.azores.gov.pt/NR/rdonlyres/25F80DC1-51E6-4447-8A38-19529975760/1125135/CN39B_signed1.pdf),

(...)

a.Contactos próximos de alto risco

Os contactos próximos de alto risco são tratados como casos suspeitos até ao resultado laboratorial do caso suspeito. Estes contactos próximos devem fazer rastreio para SARS-CoV-2. São considerados contactos de alto risco: i. Coabitação com caso confirmado de COVID-19; (...)

ii. Vigilância e Controlo de Contactos Próximos

3. Os contactos próximos de alto risco, atendendo a que, actualmente, se estima que o período de incubação da doença (tempo decorrido desde a exposição ao vírus até ao aparecimento de sintomas) seja entre 1 e 14 dias, os mesmos deverão cumprir 14 dias de isolamento profiláctico, mesmo que apresentem testes de despiste negativos durante esse período, devendo ser realizado teste ao 14º dia. Caso o resultado do teste do 14º dia seja negativo, têm alta. Caso os contactos próximos de alto risco coabitem com o caso positivo, apenas deverão ter alta aquando da determinação da cura do caso positivo, devendo, por esta via, ser prorrogado o respectivo isolamento profiláctico.

(...)

13. Cumprimento de isolamento profiláctico

Todas as pessoas identificadas como caso suspeito, até serem conhecidos os resultados negativos, cumprem isolamento profiláctico;

Todas as pessoas que testaram positivo para Covid-19 e que têm alta após teste de cura (internamento ou domicílio), não precisam efectuar novo período de isolamento de 14 dias nem repetir novo teste ao 14º dia.

Todos os passageiros que desembarquem nos aeroportos da Região provenientes dos aeroportos localizados em zonas consideradas como sendo zonas de transmissão comunitária activa ou com cadeias de transmissão activas do vírus SARS-CoV-2 devem cumprir os procedimentos em vigor na Região à data.

Aqui chegados, analisemos o valor jurídico de normas/orientações da Direcção Geral de Saúde e da circular normativa 39B, de04/08/2020, da Direcção Regional de Saúde, não restando dúvidas que entramos na esfera das orientações administrativas.

A este propósito, com a especificidade de se reportar à Autoridade Tributária – a qual tem a mesma posição jurídica administrativa da Autoridade Nacional de Saúde no ius imperium do Estado-, CASALTA NABAIS (Direito Fiscal, 6.ª ed., Almedina, pág. 197), " as chamadas orientações administrativas, tradicionalmente apresentadas nas mais diversas formas como instruções, circulares, ofícios-circulares, ofícios-circulados, despachos normativos, regulamentos, pareceres, etc.", que são muito frequentes no direito fiscal constituem "regulamentos internos que, por terem como destinatário apenas a administração tributária, só esta lhes deve obediência, sendo, pois, obrigatórios apenas para os órgãos situados hierarquicamente abaixo do órgão autor dos mesmos.

Por isso não são vinculativos nem para os particulares nem para os tribunais. E isto quer sejam regulamentos organizatórios, que definem regras aplicáveis ao funcionamento interno da administração tributária, criando métodos de trabalho ou modos de actuação, quer sejam regulamentos interpretativos, que procedem à interpretação de preceitos legais (ou regulamentares).

É certo que eles densificam, explicitam ou desenvolvem os preceitos legais, definindo previamente o conteúdo dos actos a praticar pela administração aquando da sua aplicação. Mas isso não os converte em padrão de validade dos actos que suportam. Na verdade, a aferição da legalidade

dos actos da administração tributária deve ser efectuada através do confronto directo com a correspondente norma legal e não com o regulamento interno, que se interpôs entre a norma e o acto".

Ora, o problema da relevância normativa das Circulares da Administração (Tributária) foi já colocado e apreciado nos Acórdãos do Tribunal Constitucional nº 583/2009 e 42/14, de 18.11.2009 e de 09.012.2014, respectivamente, tendo aquele Tribunal decidido, com o que concordamos, que as prescrições contidas nas Circulares da Administração Tributária, independentemente da sua irradiação persuasiva na prática dos cidadãos, não constituem normas para efeitos do sistema de controlo de constitucionalidade cometido ao Tribunal Constitucional.

Como se sublinhou naquele aresto (Acórdão 583/2009) "(...) Esses actos, em que avultam as "circulares", emanam do poder de auto-organização e do poder hierárquico da Administração. Contêm ordens genéricas de serviço e é por isso e só no respectivo âmbito subjectivo (da relação hierárquica) que têm observância assegurada. Incorporam directrizes de acção futura, transmitidas por escrito a todos os subalternos da autoridade administrativa que as emitiu. São modos de decisão padronizada, assumidos para racionalizar e simplificar o funcionamento dos serviços. Vale isto por dizer que, embora indirectamente possam proteger a segurança jurídica e assegurar igualdade de tratamento mediante aplicação uniforme da lei, não regulam a matéria sobre que versam em confronto com os particulares, nem constituem regra de decisão para os tribunais."

Consequentemente, faltando-lhes força vinculativa heterónoma para os particulares e não se impondo ao juiz senão pelo valor doutrinário que porventura possuam, as prescrições contidas nas "circulares" não constituem normas para efeitos do sistema de controlo de constitucionalidade da competência do Tribunal Constitucional.

O que fica dito, permite-nos concluir que as orientações administrativas veiculadas sob a forma de circular normativa, como no presente caso, não constituem disposições de valor legislativo que possam ser objecto de declaração de inconstitucionalidade formal - vide Acórdão do Supremo Tribunal Administrativo, de 21/06/2017, disponível para consulta em www.dgsi.pt.

E, isto para deixar claro que os normativos invocados pela Autoridade Regional de Saúde que sustentaram a privação de liberdade imposta aos Requerentes por meio de notificação de isolamento profiláctico tratam-se de orientações administrativas não vinculativas para os Requerentes. Aliás. basta atentar a quem são dirigidas respectivamente:

Circular Normativa n.º DRSCNORM/2020/39B:"Para: Unidades de Saúde do Serviço Regional de Saúde, Delegados de Saúde Concelhios (C/c Serviço Regional de Protecção Civil e

Bombeiros dos Açores, Linha de Saúde Açores) Assunto: Rastreios a SRAS-CoV-2 e abordagem dos casos suspeitos ou confirmados de infecção por SARS-CoV-2 Fonte: Direcção Regional da Saúde (...)

Norma 015/2020, de 24/07/2020: "ASSUNTO: COVID-19: Rastreio de Contactos PALAVRAS-CHAVE: Coronavírus, SARS-CoV-2, COVID-19, Rastreio de Contactos (Contact Tracing), Investigação Epidemiológica

PARA: Sistema de Saúde (...).

Nesta sequência, e, em jeito de síntese, não pode este tribunal deixar de sublinhar que o presente caso, permitimo-nos dizer aberrante, de privação de liberdade de pessoas, carece em absoluto de qualquer fundamento legal, e não se venha novamente com o argumento de que está em causa a defesa da saúde pública porque o tribunal age sempre do mesmo modo, ou seja, em conformidade com a lei, aliás, daí a necessidade de confirmação judicial consagrada na Lei de Saúde Mental no caso de internamento compulsivo, porquanto da factualidade apurada e do exposto resulta:

- Os Requerentes encontram-se confinados ao espaço de um quarto há cerca de 16 dias, com base numa notificação de "isolamento profiláctico" até ao dia 22/08/2020, período que já foi ultrapassado e a notificação operada, que de qualquer modo é ilegal como meio de detenção de pessoas pelas razões já explicitadas (bastando atentar às normas constitucionais supra expostas), caducou;

- Aos Requerentes nunca foi transmitida qualquer informação, comunicação, notificação, como devido, na sua língua materna, nem lhes foi disponibilizado intérprete, desde logo em flagrante violação da Convenção Europeia dos Direitos do Homem (art.ºs 5.º, n.º 2 e 6.º, n.º 3, al. a) e das normas processuais penais (cfr. art.º 92.º do Código Processo Penal), ou seja, no nosso sistema jurídico detida uma pessoa estrangeira e sem domínio da língua portuguesa é nomeado de imediato intérprete, e, no caso dos Requerentes que se limitaram a viajar para esta ilha e usufruir da sua beleza, nunca lhes foi concedida tal possibilidade;

- Os Requerentes após o dia 22/08/2020 encontram-se confinados ao espaço de um quarto com base nas seguintes comunicações:

- No dia 19/08/2020 foi remetido pelo Delegado de Saúde, Dr. G..., aos Requerentes e-mail, onde nomeadamente se lê:

"(...) A C... só é dada como curada após ter um teste negativo e um 2.º teste de cura negativo, quando isso acontecer a delegação de saúde entrará em contacto (...) (sic).

- No dia 21/08/2020 foi transmitido aos quatro requerentes, pelo Delegado de Saúde Dr. G..., por via de correio electrónico a seguinte mensagem: "A saber, quando acabarem a quarentena têm de fazer teste e se este for negativo podem sair de casa" (sic);

- A privação de liberdade dos Requerentes não foi sujeita a qualquer crivo judicial.

Como dissemos inicialmente, podíamos, ainda, equacionar a constitucionalidade orgânica da Resolução do Conselho do Governo nº 1207/2020, de 31 de Junho, contudo, cremos ser questão despicienda para o objecto da decisão a proferir, que se quer célere, pois mesmo à luz de tal

resolução a decisão não pode ser diversa, assente a decisão do Tribunal Constitucional, de 31/07/2020, no âmbito do processo n.º 424/2020, e, porque a posição da Autoridade Regional de Saúde nas presentes circunstâncias reconduz-se à aplicação de circulares normativas, com o valor que explicitamos supra.

Por último, e porque este tribunal tem vindo a pronunciar-se sucessiva e recentemente no âmbito do presente instituto de "habeas corpus" em face das ordens emanadas pela Autoridade Regional de Saúde, permitimo-nos subscrever e sublinhar o seguinte trecho da primeira decisão deste Juízo de Instrução Criminal:

"A questão do confinamento compulsivo em caso de doenças contagiosas, e os termos em que o mesmo deve ocorrer, é uma questão premente, e que não encontra suporte no artigo 27º, nº 3, da CRP, designadamente na sua alínea h), onde apenas se prevê o internamento de portador de anomalia psíquica em estabelecimento terapêutico adequado, decretado ou confirmado por autoridade judicial competente. Urge legislar sobre tal matéria, estabelecendo-se, de modo claro, os princípios fundamentais a que deve obedecer, deixando os aspectos detalhados para o direito derivado - e somente esses.

Pois, como refere o Professor Gian Luigi Gatta, que aqui citamos numa tradução livre, "neste momento, as energias do país estão focadas na emergência. Mas a necessidade de proteger os direitos fundamentais, também e acima de tudo em caso de emergência, exigindo-se aos Tribunais que façam sua parte. Porque, além da medicina e da ciência, também o direito - e o direito dos direitos humanos em primeiro lugar - devem estar na vanguarda: não para proibir e sancionar - como está sendo sublinhado demais nos dias de hoje – mas para garantir e proteger todos nós. Hoje a emergência é chamada de coronavírus. Nós não sabemos o amanhã. E o que fazemos ou não fazemos hoje, para manter a cumprimento dos princípios fundamentais do sistema, pode condicionar nosso futuro." (in "I diritti fondamentali alla prova del coronavirus. Perché è necessaria una legge sulla quarantena",)".

Não será difícil admitir e aceitar que a turbulência legislativa gerada em torno da contenção da propagação da COVID-19 teve – e continuará a ter – na sua razão de ser a proteção da saúde pública, mas nunca esta turbulência poderá ferir de morte o direito à liberdade e segurança e, em última análise, o direito absoluto à dignidade humana.

Resta decidir em conformidade.

(...)

Pelo que, à luz do supra exposto, por ilegal a detenção dos Requerentes A., B..., C...e D..., decido julgar procedente o presente pedido de habeas corpus e, consequentemente, determino a restituição imediata dos mesmos à liberdade.

2. A ora recorrente formulou as seguintes conclusões, que extraiu da sua motivação:

1.O presente recurso tem por objecto a decisão proferida pelo douto Tribunal a quo entendeu ser "por ilegal a detenção dos Requerentes A., B..., C...e D..." e decidiu "julgar procedente o presente pedido de habeas corpus e, consequentemente, determino a restituição imediata dos mesmos à liberdade.";

2.Apenas por uma questão de economia processual, ou seja, por ser pouco relevante para apreciação do mérito da causa, não se recorre da factualidade dada como provada, não deixando, no entanto, de referir que a mesma se baseou unicamente nas declarações dos próprios requerentes.

3.A decisão recorrida ao invocar que a recorrente não cumpriu com o ponto 6 da Resolução do Conselho do Governo Regional dos Açores n.º 207/2020, de 31 de Julho de 2020, violou o âmbito de aplicação da mesma Resolução, definido no ponto 1 da mesma Resolução;

4.A validação judicial de quarentena obrigatória, prevista no ponto 6 da dita resolução, apenas se aplica a quarentena obrigatória decretada aos passageiros que não aceitem, em alternativa, qualquer um dos procedimentos, previstos no ponto 1 da citada Resolução;

5.Os requerentes cumpriram com o procedimento previsto na alínea a) do ponto 1 da Resolução ° 207/2020, de 31 de Julho de 2020, pelo que nunca poderiam ser sujeitos à quarentena obrigatória, ao abrigo daquela Resolução e, consequentemente, não há lugar à validação judicial, prevista no ponto 6 da Resolução n.° 207/2020, de 31 de Julho de 2020.

6.Ao contrário do defendido na decisão recorrida, o ordenamento jurídico português permite a adoptação de medidas de excepção, incluindo separação de pessoas, consequente decretamento de confinamento obrigatório de pessoas infectadas e com elevada probabilidade de estar infectadas, através do mecanismo previsto no artigo 17.° da Lei n.° 81/2009, de 21 de agosto;

7.O Conselho de Ministros legitimamente fez uso do poder regulamentar excepcional, previsto no artigo 17.° da Lei n.° 81/2009, através das Resoluções do Conselho de Ministros n.° 55-A/2020, de 31 de julho de 2020 e n.° 63-A/2020, de 14 de agosto;

8.O n.° 2 da Resolução do Conselho de Ministros n.° 55-A/2020, de 31 de Julho de 2020, mandou aplicar a todo o território nacional medidas de carácter excepcional, necessárias ao combate à COVID -19, designadamente as previstos no regime anexo à aquela resolução;

9.O artigo 2.° do Anexo decretou que:

"Artigo 2.º

Confinamento obrigatório

1 — Ficam em confinamento obrigatório, em estabelecimento de saúde, no respectivo domicílio ou noutro local definido pelas autoridades de saúde:

a)Os doentes com COVID -19 e os infectados com SARS -CoV-2;

b)Os cidadãos relativamente a quem a autoridade de saúde ou outros profissionais de saúde tenham determinado a vigilância activa.

2 – (...)"

10. A requerente C...ao estar infectada com o vírus SARS-CoV-2, em cumprimento do artigo 2.º, n.º 1, alínea a) do Anexo I da Resolução do Conselho de Ministro n.º 55A/2020, tinha de estar em confinamento obrigatório;

11. O Tribunal a quo ao decretar o habeas corpus de C...e permitir a sua livre circulação violou o artigo 17.° da Lei n.° 81/2009, de 21 de agosto, por referência ao artigo 2.º, n.º 1, alínea a) do Anexo I da Resolução do Conselho de Ministro n.º 55-A/2020;

12. Os requerentes A., B... e D... de acordo com as regras estipuladas pela Autoridade Nacional de Saúde, constantes da Norma 015/2020, de 24/07/2020, são contactos com Exposição de Alto Risco, devendo ficar sujeitos a:

a.Vigilância activa durante 14 dias, desde a data da última exposição;

b.Determinação de isolamento profiláctico, no domicílio ou outro local definido a nível local, pela Autoridade de Saúde, até ao final do período de vigilância activa, de acordo com o modelo dos Despachos n.° 2836-A/2020 e/ou n.° 3103-A/20202"

13. Os requerentes A., B... e D... ao estarem sujeitos a vigilância activa, em cumprimento do artigo 2.°, n.° 1, alínea b) do Anexo I da Resolução do Conselho de Ministro n.° 55-A/2020, tinham de estar em confinamento obrigatório;

14. O Tribunal a quo ao decretar o habeas corpus de A., B... e D... e permitir a sua livre circulação violou o artigo 17.° da Lei n.° 81/2009, de 21 de agosto, por referência ao artigo 2.º, n.º 1, alínea b) do Anexo I da Resolução do Conselho de Ministro n.º 55-A/2020.

15. Impõe-se que a decisão recorrida seja revogada e substituída por outro que, valide o confinamento obrigatório dos requerentes, por serem portadores do vírus SARS -CoV-2 (C...) e por estarem em vigilância activa, por exposição de alto risco, decretada pelas autoridades de saúde (A., B... e D...).

3. Na sua resposta, o MºPº extraiu as seguintes conclusões:

1 — O acórdão do Tribunal Constitucional de 31-07-2020 (Proc. 403/2020;1.' Secção; Cons. José António Teles Pereira), depois de concluir que o confinamento obrigatório, seja através de quarentena seja através de isolamento profiláctico, constitui uma verdadeira privação da liberdade não prevista no art. 27.°, n.° 2, da C.R.P., e que todas as privações da liberdade carecem de autorização prévia da Assembleia da República, o que não foi o caso das Resoluções do Governo Regional dos Açores que impuseram uma quarentena obrigatória, considerou verificada a inconstitucionalidade orgânica das normas referidas.

2 — Estas normas, declaradas inconstitucionais pelo Tribunal Constitucional, são em tudo materialmente idênticas às que constam das Resoluções do Conselho de Ministros n.°s 55A/2020, de 31-07, 63-A/2020, de 14-08, e 70-A/2020, de 11-09, e n.° 88-A/2020, de 14-10, na medida em que prevêem privações da liberdade não previstas em diploma legal adequado e emanado da entidade competente, bem como não se encontram nas excepções previstas no art. 27.°, n.° 3, da C.R.P., pelo que estas também devem ser desaplicadas por violação do art. 27.°, n.° 1, da C.R.P..

3 — Prevendo o art. 5.°, n.° 1, al. e), da Convenção Europeia dos Direitos do Homem (Convenção para a Protecção dos Direitos do Homem e das Liberdades Fundamentais — Roma, 0411-1950), relativo ao Direito à liberdade e à segurança, que «Toda a pessoa tem direito à liberdade e segurança» e que «Ninguém pode ser privado da sua liberdade, salvo nos casos seguintes e de acordo com o procedimento legal: (...) «Se se tratar da detenção legal de uma pessoa susceptível de propagar uma doença contagiosa, de um alienado mental, de um alcoólico, de um toxicómano ou de um vagabundo», podemos concluir que a privação da liberdade de uma pessoa susceptível de propagar uma doença contagiosa é uma forma de detenção e que, de acordo com a Convenção, é possível os Estados preverem na sua legislação interna a detenção destas pessoas.

4 — Tendo em conta o princípio constitucional da tipicidade das medidas privativas da liberdade, e não prevendo o art. 27.°, da C.R.P., em nenhuma das alíneas do seu número 3, a privação da liberdade de uma pessoa "susceptível de propagar uma doença contagiosa",

5 — E tendo a alínea h) — que prevê o internamento de portador de anomalia psíquica em estabelecimento terapêutico adequado —sido acrescentada pelo art. 11.0, n.° 6, da Lei Constitucional n.° 1/97, de 20 de Setembro (4.' revisão constitucional), numa altura em que a Convenção Europeia dos Direitos do Homem já previa expressamente a detenção de pessoa susceptível de propagar doença contagiosa,

6 — E que o legislador constitucional, nem na referida revisão constitucional nem noutra posterior, acrescentou outra alínea ao n.° 3 do art. 27.° a prever esta possibilidade, como fez relativamente ao internamento de portador de anomalia psíquica, podemos concluir que estamos perante uma decisão consciente do legislador constitucional em não permitir que se proceda à privação da liberdade de pessoa susceptível de propagar doença contagiosa, apenas por esse facto.

7 — Da análise do regime constitucional do direito à liberdade e à segurança previsto no art. 27.°, n.° 1, da C.R.P., podemos concluir, assim, que não é possível o legislador, ainda que através da Assembleia da República ou do Governo por esta autorizado, criar privações da liberdade que não estejam previstas no n.° 3 do referido normativo constitucional, nomeadamente no que respeita a pessoas portadoras de doenças infecto-contagiosas, sejam estas privações da liberdade confinamentos, quarentenas ou isolamentos profilácticos, sem incorrerem as eventuais normas criadas para esse efeito numa inconstitucionalidade material por violação do referido normativo constitucional

8 — Volvendo agora ao regime legal do internamento de portadores de doenças contagiosas, a Lei n.° 2036 de 09-08-1949 previa a possibilidade de promover o isolamento ou o internamento de pessoas portadoras de doenças infecto-contagiosas, mas apenas, neste último caso, nas situações em que se verificava grave perigo de contágio, havendo recurso para uma autoridade da decisão de isolamento ou internamento.

9 — Por sua vez, o art. 17.° da Lei n.° 81/2009, de 21-08, que revogou a Lei n.° 2036 de 09¬08-1949, permite ao membro do Governo responsável pela área da saúde um poder regulamentar especial, de acordo com o estipulado pela base XX da Lei n.° 48/90, de 24-08 (Lei de Bases da Saúde), nomeadamente, «tomar medidas de excepção indispensáveis em caso de emergência em saúde pública, incluindo a restrição, a suspensão ou o encerramento de actividades ou a separação de pessoas que não estejam doentes, meios de transporte ou mercadorias, que tenham sido expostos, de forma a evitar a eventual disseminação da infecção ou contaminação».

10 — Daqui se retira, desde logo, que não está prevista na presente lei, como estava previsto na Lei n.° 2036 de 09-08-1949, a possibilidade de promover o isolamento ou o internamento de pessoas portadoras de doenças infecto-contagiosas. Por outro lado, devendo as medidas tomadas pelas autoridades de saúde respeitar a Constituição e a lei e não prevendo a Lei Constitucional a privação da liberdade das pessoas portadoras de doenças infecto-contagiosas, a interpretação a dar à expressão «separação de pessoas que não estejam doentes, meios de transporte ou mercadorias, que tenham sido expostos», para estar de acordo com a Constituição da República Portuguesa não pode atingir o núcleo do direito à liberdade, ou seja, não devem constituir uma privação total da liberdade.

11 — Por outro lado, a actual Lei de Bases da Saúde — Lei n.° 95/2019, de 04-09 — prevê na Base 34, relativa à defesa da saúde pública, que a autoridade de saúde pública pode «b) Desencadear, de acordo com a Constituição e a lei, o internamento ou a prestação compulsiva de cuidados de saúde a pessoas que, de outro modo, constituam perigo para a saúde pública».

12 — Também a Lei n.° 82/2009, de 02-04, que regulamenta o regime jurídico da designação, competência e funcionamento das entidades que exercem o poder de autoridades de saúde, prevê no seu art. 5.° as competências da autoridade de saúde, nomeadamente, «c) Desencadear, de acordo com a Constituição e a lei, o internamento ou a prestação compulsiva de cuidados de saúde a indivíduos em situação de prejudicarem a saúde pública».

13 — Daqui se retira que, devendo as medidas tomadas pelas autoridades de saúde respeitar a Constituição e a lei, e não prevendo a Lei Constitucional a privação da liberdade das pessoas portadoras de doenças infecto-contagiosas, caso a interpretação a dar à expressão «internamento ou a prestação compulsiva de cuidados de saúde a indivíduos em situação de prejudicarem a saúde pública» seja no sentido de que as autoridades de saúde podem ordenar o internamento, ou outra medida restritiva da liberdade de circulação, ou a prestação compulsiva de cuidados de saúde de pessoas portadoras de doenças infecto-contagiosas, tal interpretação da lei é materialmente inconstitucional por violação do art. 27.°, n.° 1, da C.R.P..

14 — Definindo a Lei n.° 27/2006, de 03-07 (Lei de Bases da Protecção Civil) "Acidente grave" como um acontecimento inusitado com efeitos relativamente limitados no tempo e no espaço, susceptível de atingir as pessoas e outros seres vivos, os bens ou o ambiente, mas estabelecendo no art. 5.°, n.° 1, al. a), o princípio da prioridade do interesse público relativo à protecção civil relativamente aos interesses da defesa nacional, segurança interna e saúde pública, podemos concluir que as situações graves de saúde pública, como a actual pandemia, não estão incluídas no interesse público relativo à protecção civil, logo, não estão incluídas nos conceitos de "acidente grave" e "catástrofe" a que se refere o art. 3.° da Lei de Protecção Civil.

15 — Daqui se pode também concluir que as Resoluções do Conselho de Ministros — e as Resoluções do Conselho do Governo Regional — que se fundaram na Lei de Bases da Protecção Civil para declarar "a situação de contingência e alerta, no âmbito da pandemia da doença COVID-19", nomeadamente as Resoluções do Conselho de Ministro n.°s 55-A/2020, de 31-07, 63-A/2020, de 14-08, 68-A/2020, de 28-08, e 70-A/2020, de 11-09 — revogadas pela Resolução do Conselho de Ministros n.° 88-A/2020, de 14-10, actualmente em vigor —, que prevêem no ponto 2 o «confinamento obrigatório, em estabelecimento de saúde, no respectivo domicilio ou noutro local definido pelas autoridades de saúde: (...) «a) Os doentes com COVID-19 e os infectados com SARS-CoV-2; (...) «b) Os cidadãos relativamente a quem a autoridade de saúde ou outros profissionais de saúde tenham determinado a vigilância activa», não têm fundamento legal, porquanto a Lei de Protecção Civil não se aplica a situações de perigo para a saúde pública.

16 — Podemos, assim, concluir que as Resoluções do Conselho de Ministro n.°s 55A/2020, de 31-07, 63-A/2020, de 14-08, 68-A/2020, de 28-08, 81/2020, de 29-09 — revogada esta última pela Resolução do Conselho de Ministros n.° 88 -A/2020, de 14-10, actualmente em vigor —, e respectivo Anexo, que foram emitidas pelo Governo, no uso de competências administrativas, criaram um regime que restringe a liberdade dos cidadãos portadores de doenças infecto-contagiosas

(quarentenas, isolamentos profilácticos, etc.) e, para reforçar a aplicação de uma privação da liberdade não permitida pela Constituição nem prevista em lei habilitante para as situações de portadores de doença contagiosa ou de perigo para a saúde pública, estabeleceram a cominação da prática de um crime de desobediência para tais violações e o agravamento da pena prevista para tal crime, violam, de forma directa, o art. 27.°, n.° 1, da C.R.P., pelo que, por inconstitucionais, deverão ser desaplicadas no caso concreto, ao contrário do pedido pela recorrente,

17 — Mantendo-se a decisão sub judice.

4. A recorrente é a AUTORIDADE REGIONAL DE SAÚDE, representada pela Direcção Regional da Saúde da Região Autónoma dos Açores.

Determina o Decreto-Lei n.º 11/93, de 1993-01-15, na sua versão actual (Estatuto do Serviço Nacional de Saúde) que (sublinhados nossos):

Artigo 1.º

O Serviço Nacional de Saúde, adiante designados por SNS, **é um conjunto ordenado e hierarquizado de instituições e de serviços oficiais prestadores de cuidados de saúde, funcionando sob a superintendência ou a tutela do Ministro da Saúde**.

Artigo 3.º

1 - O SNS organiza-se em regiões de saúde.

2 - As regiões de saúde dividem-se em sub-regiões de saúde, integradas por áreas de saúde.

Artigo 6.º

1 - **Em cada região de saúde há uma administração regional de saúde, adiante designada por ARS**.

2 - As ARS têm personalidade jurídica, autonomia administrativa e financeira e património próprio.

3 - As ARS têm funções de planeamento, distribuição de recursos, orientação e coordenação de actividades, gestão de recursos humanos, apoio técnico e administrativo e ainda de avaliação do funcionamento das instituições e serviços prestadores de cuidados de saúde.

4 – (...).

Por seu turno, estipula o Decreto-Lei n.º 22/2012

Artigo 1.º

1 - As Administrações Regionais de Saúde, I. P., abreviadamente designadas por **ARS**, I.P**., são institutos públicos integrados na administração indirecta do Estado**, dotados de autonomia administrativa, financeira e património próprio.

2 - **As ARS, I. P., prosseguem as suas atribuições, sob superintendência e tutela do membro do Governo responsável pela área da saúde.**

3 - As ARS, I.P., regem-se pelas normas constantes do presente decreto-lei, pelo disposto na lei-quadro dos institutos públicos e no Estatuto do Serviço Nacional de Saúde e pelas demais normas que lhe sejam aplicáveis.

Artigo 3.º

1 - As ARS, I. P., têm por missão garantir à população da respectiva área geográfica de intervenção o acesso à prestação de cuidados de saúde, adequando os recursos disponíveis às necessidades e cumprir e fazer cumprir políticas e programas de saúde na sua área de intervenção.

2 - São atribuições de cada ARS, I. P., no âmbito das circunscrições territoriais respectivas:

a) Executar a política nacional de saúde, de acordo com as políticas globais e sectoriais, visando o seu ordenamento racional e a optimização dos recursos;

b) Participar na definição das medidas de coordenação intersectorial de planeamento, tendo como objectivo a melhoria da prestação de cuidados de saúde;

c) Colaborar na elaboração do Plano Nacional de Saúde e acompanhar a respectiva execução a nível regional;

d) Desenvolver e fomentar actividades no âmbito da saúde pública, de modo a garantir a protecção e promoção da saúde das populações;

e) Assegurar a execução dos programas de intervenção local com vista à redução do consumo de substâncias psicoactivas, a prevenção dos comportamentos aditivos e a diminuição das dependências;

f) Desenvolver, consolidar e participar na gestão da Rede Nacional de Cuidados Continuados Integrados de acordo com as orientações definidas;

g) Assegurar o planeamento regional dos recursos humanos, financeiros e materiais, incluindo a execução dos necessários projectos de investimento, das instituições e serviços prestadores de cuidados de saúde, supervisionando a sua afectação;

h) Elaborar, em consonância com as orientações definidas a nível nacional, a carta de instalações e equipamentos;

i) Afectar, de acordo com as orientações definidas pela Administração Central do Sistema de Saúde, I. P., recursos financeiros às instituições e serviços prestadores de cuidados de saúde

integrados ou financiados pelo Serviço Nacional de Saúde e a entidades de natureza privada com ou sem fins lucrativos, que prestem cuidados de saúde ou actuem no âmbito das áreas referidas nas alíneas e) e f);

j) Celebrar, acompanhar e proceder à revisão de contratos no âmbito das parcerias público-privadas, de acordo com as orientações definidas pela Administração Central do Sistema de Saúde, I. P., e afectar os respectivos recursos financeiros;

l) Negociar, celebrar e acompanhar, de acordo com as orientações definidas a nível nacional, os contratos, protocolos e convenções de âmbito regional, bem como efectuar a respectiva avaliação e revisão, no âmbito da prestação de cuidados de saúde bem como nas áreas referidas nas alíneas e) e f);

m) Orientar, prestar apoio técnico e avaliar o desempenho das instituições e serviços prestadores de cuidados de saúde, de acordo com as políticas definidas e com as orientações e normativos emitidos pelos serviços e organismos centrais competentes nos diversos domínios de intervenção;

n) Assegurar a adequada articulação entre os serviços prestadores de cuidados de saúde de modo a garantir o cumprimento da rede de referenciação;

o) Afectar recursos financeiros, mediante a celebração, acompanhamento e revisão de contratos no âmbito dos cuidados continuados integrados;

p) Elaborar programas funcionais de estabelecimentos de saúde;

q) Licenciar as unidades privadas prestadoras de cuidados de saúde e as unidades da área das dependências e comportamentos aditivos do sector social e privado;

r) Emitir pareceres sobre planos directores de unidades de saúde, bem como sobre a criação, modificação e fusão de serviços;

s) Emitir pareceres sobre a aquisição e expropriação de terrenos e edifícios para a instalação de serviços de saúde, bem como sobre projectos das instalações de prestadores de cuidados de saúde.

3 - Para a prossecução das suas atribuições, as ARS, I. P., podem colaborar entre si e com outras entidades do sector público ou privado, com ou sem fins lucrativos, nos termos da legislação em vigor.

5. A providência de *habeas corpus* requerida insere-se no disposto no artº 220 do C.P.Penal, que tem a seguinte redacção:

Habeas corpus em virtude de detenção ilegal

1 - Os detidos à ordem de qualquer autoridade podem requerer ao juiz de instrução da área onde se encontrarem que ordene a sua imediata apresentação judicial, com algum dos seguintes fundamentos:

a) Estar excedido o prazo para entrega ao poder judicial;

b) Manter-se a detenção fora dos locais legalmente permitidos;

c) Ter sido a detenção efectuada ou ordenada por entidade incompetente;

d) Ser a detenção motivada por facto pelo qual a lei a não permite.

2 - O requerimento pode ser subscrito pelo detido ou por qualquer cidadão no gozo dos seus direitos políticos.

3 - É punível com a pena prevista no artigo 382.º do Código Penal qualquer autoridade que levantar obstáculo ilegítimo à apresentação do requerimento referido nos números anteriores ou à sua remessa ao juiz competente.

6. Apreciando.

Estipula o artº 401 do C.P. Penal o seguinte:

1 - Têm legitimidade para recorrer:

a) O Ministério Público, de quaisquer decisões, ainda que no exclusivo interesse do arguido;

b) O arguido e o assistente, de decisões contra eles proferidas;

c) As partes civis, da parte das decisões contra cada uma proferidas;

d) Aqueles que tiverem sido condenados ao pagamento de quaisquer importâncias, nos termos deste Código, ou tiverem a defender um direito afectado pela decisão.

2 - Não pode recorrer quem não tiver interesse em agir.

7. A primeira questão que aqui se coloca é a da legitimidade da recorrente, em sede de recurso em processo-crime.

i. Estamos no âmbito de uma jurisdição criminal, cujo propósito é o de assegurar o efectivo exercício do *jus puniendi* do Estado, isto é, que se dedica à averiguação e decisão relativamente a comportamentos que constituam crime ou contra-ordenação.

É, nesse âmbito e atenta tal finalidade, que a Lei determina quem tem legitimidade para poder discutir a bondade de uma decisão proferida por um tribunal criminal.

ii. No caso, constatamos que a recorrente não é arguida, não é assistente e não formulou qualquer pedido de natureza cível que, face ao princípio da adesão, lhe determinasse a posição de demandante ou demandada.

iii. Assim, perante a Lei e atendendo ao rol de intervenientes que o legislador entendeu poderem ter legitimidade para intervir num processo neste tipo de jurisdição, em sede de recurso, teremos desde logo de concluir que carece a recorrente de legitimidade para poder vir discutir o teor de uma decisão judicial, neste contexto.

iv. Efectivamente, não se discute aqui a prática de qualquer crime, nem de qualquer ilícito de natureza contra-ordenacional, sendo certo que a questão das eventuais consequências a nível criminal, do reconhecimento de existência de uma detenção ilegal, é matéria que terá de ser discutida em sede própria – isto é, em inquérito que venha a ser aberto para tal fim, sendo completamente estranha à decisão da presente causa.

v. Concluímos, assim, que carece a recorrente de legitimidade para interpor recurso da decisão proferida pelo tribunal "a quo".

8. Independentemente da questão da legitimidade, constata-se que, de igual modo, carece a recorrente de interesse em agir.

i. Como decorre da jurisprudência e doutrina pacíficas a este respeito, o interesse em agir significa a necessidade de alguém ter de usar o mecanismo de recurso como modo de reacção **contra uma decisão que lhe acarrete uma desvantagem para os interesses que defende ou que tenha frustrado uma sua legítima expectativa ou benefício.**

ii. Ora, no caso presente, a pergunta é – a decisão proferida acarretou qualquer desvantagem para os interesses que a ARS defende? Ou uma sua legítima expectativa ou benefício?

A resposta é manifestamente negativa.

Senão, vejamos.

iii. A ARS **prossegue as suas atribuições, sob superintendência e tutela do membro do Governo responsável pela área da saúde**.

Assim, e desde logo, quer face às funções que lhe são cometidas, quer perante a manifesta hierarquização das mesmas, perante a tutela, terá de se concluir que nenhuma ARS prossegue um interesse próprio e autónomo, que lhe cumpra defender. Quem o prosseguirá, eventualmente, será o Ministro respectivo ou o Governo em que se insere, pois os "interesses" da ARS não serão seus, mas englobar-se-ão na política de saúde do ministério que tutela tal entidade.

Note-se, aliás que na definição das suas atribuições [1], não lhe é determinada qualquer específica função de defesa, de modo autónomo e em nome próprio, em sede

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11 2 - São atribuições de cada ARS, I. P., no âmbito das circunscrições territoriais respectivas:
a) Executar a política nacional de saúde, de acordo com as políticas globais e sectoriais, visando o seu ordenamento racional e a optimização dos recursos;
b) Participar na definição das medidas de coordenação intersectorial de planeamento, tendo como objectivo a melhoria da prestação de cuidados de saúde;
c) Colaborar na elaboração do Plano Nacional de Saúde e acompanhar a respectiva execução a nível regional;
d) Desenvolver e fomentar actividades no âmbito da saúde pública, de modo a garantir a protecção e promoção da saúde das populações;
e) Assegurar a execução dos programas de intervenção local com vista à redução do consumo de substâncias psicoactivas, a prevenção dos comportamentos aditivos e a diminuição das dependências;
f) Desenvolver, consolidar e participar na gestão da Rede Nacional de Cuidados Continuados Integrados de acordo com as orientações definidas;
g) Assegurar o planeamento regional dos recursos humanos, financeiros e materiais, incluindo a execução dos necessários projectos de investimento, das instituições e serviços prestadores de cuidados de saúde, supervisionando a sua afectação;
h) Elaborar, em consonância com as orientações definidas a nível nacional, a carta de instalações e equipamentos;
i) Afectar, de acordo com as orientações definidas pela Administração Central do Sistema de Saúde, I. P., recursos financeiros às instituições e serviços prestadores de cuidados de saúde integrados ou financiados pelo Serviço Nacional de

judicial, de quaisquer interesses que se insiram nas suas funções que, no que respeita a actividades do foro criminal ou contra-ordenacional, são nenhumas...

iv. Por seu turno, o interesse que a própria recorrente pretende defender e que consta em sede de pedido, no final deste recurso – a validação do confinamento obrigatório dos requerentes, por serem portadores do vírus SARS -CoV-2 (Angelique Hörner) e por estarem em vigilância activa, por exposição de alto risco, decretada pelas autoridades de saúde (A., B... e D...) – é algo em si mesmo contraditório e que ultrapassa a finalidade e o âmbito de competências de um tribunal criminal.

Contraditório porque a recorrente não admite que confinamento corresponda a privação da liberdade. Se assim é, não se vislumbra em que sede funda a recorrente a competência de um tribunal criminal para validar "confinamentos". E fora do âmbito de actuação de um tribunal criminal, porque a este não compete proceder a decisões declarativas de validação de infecções ou doenças...

Saúde e a entidades de natureza privada com ou sem fins lucrativos, que prestem cuidados de saúde ou actuem no âmbito das áreas referidas nas alíneas e) e f);

j) Celebrar, acompanhar e proceder à revisão de contratos no âmbito das parcerias público-privadas, de acordo com as orientações definidas pela Administração Central do Sistema de Saúde, I. P., e afectar os respectivos recursos financeiros;
l) Negociar, celebrar e acompanhar, de acordo com as orientações definidas a nível nacional, os contratos, protocolos e convenções de âmbito regional, bem como efectuar a respectiva avaliação e revisão, no âmbito da prestação de cuidados de saúde bem como nas áreas referidas nas alíneas e) e f);
m) Orientar, prestar apoio técnico e avaliar o desempenho das instituições e serviços prestadores de cuidados de saúde, de acordo com as políticas definidas e com as orientações e normativos emitidos pelos serviços e organismos centrais competentes nos diversos domínios de intervenção;
n) Assegurar a adequada articulação entre os serviços prestadores de cuidados de saúde de modo a garantir o cumprimento da rede de referenciação;
o) Afectar recursos financeiros, mediante a celebração, acompanhamento e revisão de contratos no âmbito dos cuidados continuados integrados;
p) Elaborar programas funcionais de estabelecimentos de saúde;
q) Licenciar as unidades privadas prestadoras de cuidados de saúde e as unidades da área das dependências e comportamentos aditivos do sector social e privado;
r) Emitir pareceres sobre planos directores de unidades de saúde, bem como sobre a criação, modificação e fusão de serviços;
s) Emitir pareceres sobre a aquisição e expropriação de terrenos e edifícios para a instalação de serviços de saúde, bem como sobre projectos das instalações de prestadores de cuidados de saúde.

v. Finalmente, não se enxerga que legítima expectativa ou benefício tenha uma entidade sob a tutela de um órgão do Governo, visto frustrada, pela decisão ora posta em crítica.

vi. Do dito decorre que não tem a recorrente interesse em agir, razão pela qual, ao abrigo do disposto no nº2 do artº 401 do C.P. Penal, não pode recorrer da decisão proferida.

9. A decisão proferida pelo tribunal "a quo" de recebimento do presente recurso não vincula este tribunal (artº 414 do C.P.Penal), pelo que nada obsta a que se determine a sua rejeição.

10. Não obstante, e para paz e sossego das consciências, aditar-se-á ainda o seguinte:

Ainda que assim se não entendesse, **o recurso apresentado mostrar-se-ia manifestamente improcedente, pelas seguintes sucintas razões**:

i. Desde logo, pela exaustiva e acertada fundamentação exposta na decisão, pelo tribunal "a quo", cujo teor se subscreve na íntegra.

Na verdade, face à Constituição e à Lei, não têm as autoridades de saúde poder ou legitimidade para privarem qualquer pessoa da sua liberdade - ainda que sob o rótulo de "confinamento", que corresponde efectivamente a uma detenção – uma vez que tal decisão só pode ser determinada ou validada por autoridade judicial, isto é, a competência exclusiva, face à Lei que ainda nos rege, para ordenar ou validar tal privação da liberdade, é acometida em exclusivo a um poder autónomo, à Magistratura Judicial.

Daí decorre que, qualquer pessoa ou entidade que profira uma ordem, cujo conteúdo se reconduza à privação da liberdade física, ambulatória, de outrem (qualquer que seja a nomenclatura que esta ordem assuma: confinamento, isolamento, quarentena, resguardo profiláctico, etc**), que se não enquadre nas previsões legais, designadamente no disposto no artº 27 da CRP e sem que lhe**

tenha sido conferido tal poder decisório, por força de Lei - proveniente da AR, no âmbito estrito da declaração de estado de emergência ou de sítio, respeitado que se mostre o princípio da proporcionalidade - que a mandate e especifique os termos e condições de tal privação, estará a proceder a uma detenção ilegal, porque ordenada por entidade incompetente e porque motivada por facto pelo qual a lei a não permite (diga-se, aliás, que esta questão já foi sendo debatida, ao longo dos tempos, a propósito de outros fenómenos de saúde pública, nomeadamente no que se refere à infecção por HIV e por tuberculose, por exemplo. E, que se saiba, nunca ninguém foi privado da sua liberdade, por suspeita ou certeza de padecer de tais doenças, precisamente porque a Lei o não permite).

É neste âmbito que se insere, sem qualquer sombra de dúvida, a situação em apreciação neste processo, sendo certo que o meio de defesa adequado, contra detenções ilegais, se subsume ao recurso a pedido de *habeas corpus*, previsto no artº 220, als. c) e d), do C.P.Penal.

E, correctamente, o tribunal "a quo" determinou a imediata libertação de quatro pessoas que se mostravam ilegalmente privadas de liberdade.

ii. Em segundo lugar, porque **o próprio pedido formulado no recurso, se mostra de impossível procedência**.

Senão, vejamos:

11. De facto, é pedido que seja validado "o confinamento obrigatório dos requerentes, **por serem portadores do vírus SARS-CoV-2** (C…) e por estarem em vigilância activa, **por exposição de alto risco**, decretada pelas autoridades de saúde (A., B... e D...)."

12. É com enorme espanto que este tribunal se confronta com tal pedido, especialmente se tivermos em atenção que a recorrente exerce a sua actividade no sector da saúde.

Desde quando é que compete a um tribunal fazer diagnósticos clínicos, por sua própria iniciativa e com base nos eventuais resultados de um teste? Ou à ARS? Desde quando é que o diagnóstico de uma doença é feito por decreto ou por lei?

13. Como a recorrente tem mais do que obrigação de saber, **um diagnóstico é um acto médico, da exclusiva responsabilidade de um médico**.

É isso que resulta inequívoca e peremptoriamente do Regulamento n.º 698/2019, de 5.9 (regulamento que define os actos próprios dos médicos), publicado em DR.

Aí se determina, de modo imperativo (o que impõe o seu acatamento por todos, incluindo a recorrente) que (sublinhados nossos):

Artigo 1.º

Objecto

O presente regulamento define os actos profissionais próprios dos médicos, a sua responsabilidade, autonomia e limites, no âmbito do respectivo desempenho.

Artigo 3.º

Habilitação

1 — **O médico é o profissional legalmente habilitado ao exercício da medicina, capacitado para o diagnóstico,** tratamento, prevenção ou recuperação **de doenças e outros problemas de saúde**, e apto a prestar cuidados e a intervir sobre indivíduos, conjuntos de indivíduos ou grupos populacionais, doentes ou saudáveis, tendo em vista a protecção, melhoria ou manutenção do seu estado e nível de saúde.

2 — **Os médicos possuidores de inscrição em vigor na Ordem dos Médicos são os únicos profissionais que podem praticar os actos próprios dos médicos, nos termos do Estatuto da Ordem dos Médicos,** aprovado pelo Decreto -Lei n.º 282/77, de 5 de Julho, com as alterações que lhe foram introduzidas pela Lei n.º 117/2015, de 31 de agosto e do presente regulamento.

Artigo 6.º

Acto médico em geral

1 — **O acto médico consiste na actividade diagnóstica, prognóstica, de vigilância,** de investigação, de perícias médico-legais, de codificação clínica, de auditoria clínica, **de prescrição e execução** de medidas terapêuticas farmacológicas e não farmacológicas, **de técnicas médicas,** cirúrgicas e de reabilitação, de promoção da saúde e prevenção da doença em todas as suas dimensões, designadamente física, mental e social das pessoas, grupos populacionais ou comunidades, no respeito pelos valores deontológicos da profissão médica.

Artigo 7.º

Acto de diagnóstico

A identificação de uma perturbação, doença ou do estado de uma doença pelo estudo dos seus sintomas e sinais e análise dos exames efectuados constitui um procedimento base em saúde que deve ser realizado por médico e, em cada área específica, por médico especialista e visa a instituição da melhor terapêutica preventiva, cirúrgica, farmacológica, não farmacológica ou de reabilitação.

14. Mesmo ao abrigo da Lei de Saúde Mental, Lei n.º 36/98, de 24 de Julho, o diagnóstico da patologia que pode levar ao internamento compulsivo, é obrigatoriamente realizado por médicos especialistas e o seu juízo técnico-científico - inerente à avaliação clínico-psiquiátrica - está subtraído à livre apreciação do juiz (vide artºs 13 nº3, 16 e 17 da dita Lei).

15. Assim, qualquer diagnóstico ou qualquer acto de vigilância sanitária (como é o caso da determinação de existência de infecção viral e de alto risco de exposição, que se mostram abrangidas nestes conceitos) feitos sem observação médica prévia aos requerentes, sem intervenção de médico inscrito na OM (que procedesse à avaliação dos seus sinais e sintomas, bem como dos exames que entendesse adequados à sua condição), viola tal Regulamento, assim como o disposto no artº 97 do Estatuto da Ordem dos Médicos, sendo passível de

configurar o crime p. e p. pelo artº 358 al.b) (Usurpação de funções) do C.Penal, se ditado por alguém que não tem tal qualidade, isto é, que não é médico inscrito na Ordem dos Médicos.

Viola igualmente o nº1 do artº 6º da Declaração Universal sobre Bioética e Direitos Humanos, que Portugal subscreveu e se mostra interna e externamente obrigado a respeitar, uma vez que se não mostra junto aos autos nenhum documento comprovativo de ter sido prestado o consentimento esclarecido que essa Declaração impõe.

Mostra-se assim claro que a prescrição de métodos auxiliares de diagnóstico (como é o caso dos testes de detecção de infecção viral), bem como o diagnóstico quanto à existência de uma doença, relativamente a toda e qualquer pessoa, é matéria que não pode ser realizada por Lei, Resolução, Decreto, Regulamento ou qualquer outra via normativa, por se tratarem de actos que o nosso ordenamento jurídico reserva à competência exclusiva de um médico, sendo certo que este, no aconselhamento do seu doente, deverá sempre tentar obter o seu consentimento esclarecido.

16. No caso que ora nos ocupa, não há qualquer indicação nem prova, de tal diagnóstico ter sido efectivamente realizado por profissional habilitado nos termos da Lei e que tivesse actuado de acordo com as boas práticas médicas.

Efectivamente, o que decorre dos factos dados como assentes, é que nenhum dos requerentes foi sequer visto por um médico, o que se mostra francamente inexplicável, face à invocada gravidade da infecção.

17. Na verdade, o único elemento que consta nos factos provados, a este respeito, é a realização de testes RT-PCR, sendo que um deles apresentou um resultado positivo em relação a uma das requerentes.

i. Ora, face à actual evidência científica, esse teste mostra-se, só por si, incapaz de determinar, sem margem de dúvida razoável, que tal positividade corresponde, de facto, à infecção de uma pessoa pelo vírus SARS-CoV-2, por várias

razões, das quais destacamos duas (a que acresce a questão do *gold standard* que, pela sua especificidade, nem sequer abordaremos):

Por essa fiabilidade depender do número de ciclos que compõem o teste;

Por essa fiabilidade depender da quantidade de carga viral presente.

ii. Efectivamente, os testes RT-PCR (Reacção em cadeia da polimerase), testes de biologia molecular que detectam o RNA do vírus, comumente utilizados em Portugal para testar e enumerar o número de infectados (após recolha nasofaríngea), são realizados por amplificação de amostras, através de ciclos repetitivos.

Do número de ciclos de tal amplificação, resulta a maior ou menor fiabilidade de tais testes.

iii. E o problema é que essa fiabilidade se mostra, em termos de evidência científica (e neste campo, o julgador terá de se socorrer do saber dos peritos na matéria) mais do que discutível.

É o que resulta, entre outros, do muito recente e abrangente estudo *Correlation between 3790 qPCR positives samples and positive cell cultures including 1941 SARS-CoV-2 isolates*, by Rita Jaafar, Sarah Aherfi, Nathalie Wurtz, Clio Grimaldier, Van Thuan Hoang, Philippe Colson, Didier Raoult, Bernard La Scola, Clinical Infectious Diseases, ciaa1491,https://doi.org/10.1093/cid/ciaa1491,em https://academic.oup.com/cid/advance-article/doi/10.1093/cid/ciaa1491/5912603, publicado em finais de Setembro deste ano, pela *Oxford Academic*, realizado por um grupo que reúne alguns dos maiores especialistas europeus e mundiais na matéria.

Nesse estudo conclui-se[2], em tradução livre:

2 *"that at a cycle threshold (ct) of 25, about 70% of samples remained positive in cell culture (i.e. were infectious); at a ct of 30, 20% of samples remained positive; at a ct of 35, 3% of samples remained positive; and at a ct above 35, no sample remained positive (infectious) in cell culture (see diagram)*
This means that if a person gets a "positive" PCR test result at a cycle threshold of 35 or higher *(as applied in most US labs and many European labs),* ***the chance that the person is infectious is less than 3%. The chance that the person received a "false positive" result is 97% or higher****.*

"A um limiar de ciclos (ct) de 25, cerca de 70% das amostras mantém-se positivas na cultura celular (i.e. estavam infectadas): num ct de 30, 20% das amostras mantinham-se positivas; num ct de 35, 3% das amostras mantinham-se positivas; e num ct acima de 35, nenhuma amostra se mantinha positiva (infecciosa) na cultura celular (ver diagrama).

Isto significa que se uma pessoa tem um teste PCR positivo a um limiar de ciclos de 35 ou superior (como acontece na maioria dos laboratórios do EUA e da Europa), as probabilidades de uma pessoa estar infectada é menor do que 3%. A probabilidade de a pessoa receber um falso positivo é de 97% ou superior".

iv. O que decorre destes estudos é simples – **a eventual fiabilidade dos testes PCR realizados depende, desde logo, do limiar de ciclos de amplificação que os mesmos comportam,** de tal modo que, até ao limite de 25 ciclos, a fiabilidade do teste será de cerca de 70%; se forem realizados 30 ciclos, o grau de fiabilidade desce para 20%; se se alcançarem os 35 ciclos, o grau de fiabilidade será de 3%.

v. Ora, no caso presente, **ignora-se qual o número de ciclos de amplificação com que são realizados os testes PCR em Portugal, incluindo Açores e Madeira,** uma vez que não nos foi possível encontrar qualquer recomendação ou limite a esse respeito.

vi. Por seu turno, num estudo também muito recente de Elena Surkova, Vladyslav Nikolayevskyy e Francis Drobniewski, acessível em https://www.thelancet.com/journals/lanres/article/PIIS2213-2600(20)30453-7/fulltext, publicado no igualmente prestigiado *The Lancet, Respiratory Medicine*, refere-se (para além das múltiplas questões que a própria precisão do teste suscita, quanto à específica detecção do vírus sars-cov 2, por fortes dúvidas quanto ao cumprimento do chamado *gold standard*) que (tradução livre):

"Qualquer teste de diagnóstico **deve ser interpretado no contexto da possibilidade efectiva da doença, existente antes da sua realização**. Para Covid-19, essa decisão de realização do teste, depende da prévia avaliação da existência de

sintomas, história médica anterior de Covid 19 ou presença de anticorpos, qualquer potencial exposição a essa doença e não verosimilhança de outro possível diagnóstico."[3]

"Uma das potenciais razões para a apresentação de resultados positivos poderá residir no prolongado derramamento de RNA viral, que se sabe poder estender-se por semanas, após a recuperação, naqueles que foram anteriormente expostos ao SARS-CoV-2. **Todavia, e mais relevantemente, não existem dados científicos que sugiram que baixos níveis de RNA viral por RT-PCR equivalham a infecção, excepto se a presença de partículas virais infecciosas tiver sido confirmada através de métodos de cultura laboratorial**.

Em síntese, testes Covid-19 que acusem falsos positivos mostram-se cada vez mais prováveis, no actual panorama climático epidemiológico do Reino Unido, com consequências substanciais a nível pessoal, do sistema de saúde e societário."[4]

18. Assim, existindo tantas dúvidas científicas, expressas por peritos na matéria, que são as que aqui importam, quanto à fiabilidade de tais testes, ignorando-se os parâmetros da sua realização e não havendo nenhum diagnóstico realizado por um médico, no sentido da existência de infecção e de risco, nunca seria possível a este tribunal determinar que C...era portadora do

3 Any diagnostic test result should be interpreted in the context of the pretest probability of disease. For COVID-19, the pretest probability assessment includes symptoms, previous medical history of COVID-19 or presence of antibodies, any potential exposure to COVID-19, and likelihood of an alternative diagnosis.1 When low pretest probability exists, positive results should be interpreted with caution and a second specimen tested for confirmation.

4 Prolonged viral RNA shedding, which is known to last for weeks after recovery, can be a potential reason for positive swab tests in those previously exposed to SARS-CoV-2. However, importantly, no data suggests that detection of low levels of viral RNA by RT-PCR equates with infectivity unless infectious virus particles have been confirmed with laboratory culturebased methods.7
To summarise, false-positive COVID-19 swab test results might be increasingly likely in the current epidemiological climate in the UK, with substantial consequences at the personal, health system, and societal levels (panel).

vírus SARS-CoV-2, nem que A., B... e D... tivessem tido exposição de alto risco.

19. Em síntese final dir-se-á que, uma vez que o recurso interposto se mostra inadmissível, por falta de legitimidade e por falta de interesse em agir por parte da recorrente, bem como manifestamente improcedente, terá de ser rejeitado, ao abrigo do disposto nos artºs 401 nº1 al. a), 417 nº6 al. b) e artº420 nº1 als. a) e b), todos do C.P. Penal.

IV – DECISÃO.

Face ao exposto, e ao abrigo do vertido nos artigos 417.º, n.º 6, al. b) e 420 nº1 als. a) e b), ambos do Código de Processo Penal, rejeita-se o recurso interposto por **AUTORIDADE REGIONAL DE SAÚDE,** representada pela Direcção Regional da Saúde da Região Autónoma dos Açores**.**

Nos termos do n.º 3 do artigo 420.º do C.P.Penal, condena-se a recorrente na sanção processual de 4 UC, bem como na T.J de 4 UC e nas custas.

Dê imediato conhecimento ao tribunal "a quo" do teor do presente acórdão.

Lisboa, 11 de Novembro de 2020

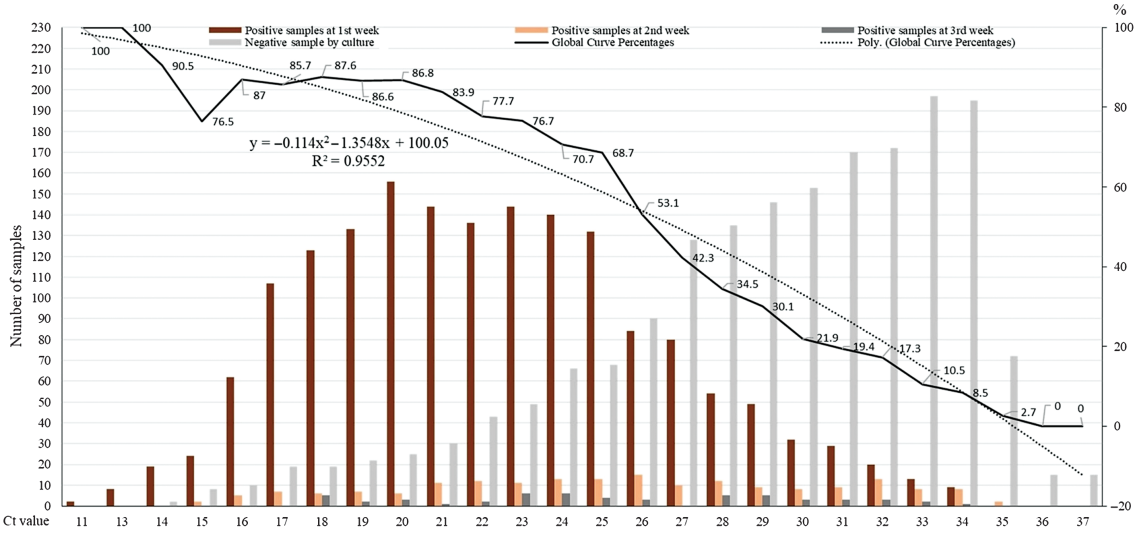
Assinaturas Digitais: Margarida Ramos de Almeida (relatora)
Ana Paramés

IDSA Infectious Diseases Society of America · hivma hiv medicine association · OXFORD

Correlation Between 3790 Quantitative Polymerase Chain Reaction–Positives Samples and Positive Cell Cultures, Including 1941 Severe Acute Respiratory Syndrome Coronavirus 2 Isolates

To THE EDITOR—The outbreak of the coronavirus disease 2019 (COVID-19) pandemic due to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) was declared a pandemic on 12 March 2020 by the World Health Organization [1]. A major issue related to the outbreak has been to correlate viral RNA load obtained after reverse-transcription polymerase chain reaction (RT-PCR) and expressed as the cycle threshold (Ct) with contagiousness and therefore duration of eviction from contacts and discharge from specialized infectious disease wards. Several recent publications, based on more than 100 studies, have attempted to propose a cutoff Ct value and duration of eviction, with a consensus at approximately Ct >30 and at least 10 days, respectively [2–5]. However, in an article published in *Clinical Infectious Diseases*, Bullard et al reported that patients could not be contagious with Ct >25 as the virus is not detected in culture above this value [6]. This limit was then evoked in the French media during an interview with a member of the French Scientific Council Covid-19 as a possible value above which patients are no longer contagious [7].

At the beginning of the outbreak, we correlated Ct values obtained using our PCR technique based on amplification of the E gene and the results of the culture [8]. Since the beginning of the pandemic, we have performed 250 566 SARS-CoV-2 RT-PCR for 179 151 patients, of whom 13 161 (7.3%) tested positive. Up to the end of May, 3790 of these samples, reported as positive on nasopharyngeal samples, were inoculated and managed for culture as previously described [8]. Of these 3790 inoculated samples, 1941 SARS-CoV-2 isolates could be obtained after the first inoculation or up to 2 blind subcultures. The correlation between the scanner values and the positivity of the culture allows us to observe that the image obtained with 10 times more isolates than in our preliminary work (1941 vs 129) does not change significantly (Figure 1). It can be observed that at Ct = 25, up to 70% of patients remain positive in culture and that at Ct = 30 this value drops to 20%. At Ct = 35, the value we used to report a positive result for PCR, <3% of cultures are positive. Our Ct value of 35, initially based on the results



Ct value	11	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37
Number of samples (N = 3790)	2	8	21	34	77	133	153	164	190	186	193	210	225	217	192	218	206	209	196	211	208	220	213	74	15	15
Total positive (n = 1941)	2	8	19	26	67	114	134	142	165	156	150	161	159	149	102	90	71	63	43	41	36	23	18	2	0	0
Week 1: number of positives (n = 1700)	2	8	19	24	62	107	123	133	156	144	136	144	140	132	84	80	54	49	32	29	20	13	9	0	0	0
(% by total positive)	(100)	(100)	(100)	(92.3)	(92.5)	(93.9)	(91.8)	(93.7)	(94.5)	(92.3)	(90.7)	(89.4)	(88.1)	(88.6)	(82.4)	(88.9)	(76.1)	(77.8)	(74.4)	(70.7)	(55.6)	(56.5)	(50.0)	(0)	(-)	(-)
Week 2: number of positives (n = 187)	0	0	0	2	5	7	6	7	6	11	12	11	13	13	15	10	12	9	8	9	13	8	8	2	0	0
(% by total positive)	(0)	(0)	(0)	(7.7)	(7.5)	(6.1)	(4.5)	(4.9)	(3.6)	(7.1)	(8.0)	(6.8)	(8.2)	(8.7)	(14.7)	(11.1)	(16.9)	(14.3)	(18.6)	(22.0)	(36.1)	(34.8)	(44.0)	(100)	(-)	(-)
Week 3: number of positives (n = 54)	0	0	0	0	0	0	5	2	3	1	2	6	6	4	3	0	5	5	3	3	3	2	1	0	0	0
(% by total positive)	(0)	(0)	(0)	(0)	(0)	(0)	(3.7)	(1.4)	(1.8)	(0.6)	(1.3)	(3.7)	(3.8)	(2.7)	(2.9)	(0)	(7.0)	(7.9)	(7.0)	(7.3)	(8.3)	(8.7)	(5.6)	(0)	(-)	(-)
Negative cultured (n = 1849)	0	0	2	8	10	19	19	22	25	30	43	49	66	68	90	128	135	146	153	170	172	197	195	72	15	15

Figure 1. Percentage of positive viral cultures of severe acute respiratory syndrome coronavirus 2 polymerase chain reaction–positive nasopharyngeal samples from coronavirus disease 2019 patients, according to Ct value (plain line). The dashed curve indicates the polynomial regression curve. Abbreviations: Ct, cycle threshold; Poly., polynomial.

obtained by RT-PCR on control negative samples in our laboratory and initial results of cultures [8], is validated by the results herein presented and is in correlation with what was proposed in Korea [9] and Taiwan [10]. We could observe that subcultures, especially the first one, allow an increasing percentage of viral isolation in samples with Ct values, confirming that these high Ct values are mostly correlated with low viral loads. From our cohort, we now need to try to understand and define the duration and frequency of live virus shedding in patients on a case-by-case basis in the rare cases when the PCR is positive beyond 10 days, often at a Ct >30. In any cases, these rare cases should not impact public health decisions.

Notes

Ethical approval. The protocol was approved by the University Hospital Institute Méditerranée Infection Ethical Committee. All patients provided informed consent in accordance with the Declaration of Helsinki.

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False-positive COVID-19 results: hidden problems and costs

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RT-PCR tests to detect severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) RNA are the operational gold standard for detecting COVID-19 disease in clinical practice. RT-PCR assays in the UK have analytical sensitivity and specificity of greater than 95%, but no single gold standard assay exists.[1,2] New assays are verified across panels of material, confirmed as COVID-19 by multiple testing with other assays, together with a consistent clinical and radiological picture. These new assays are often tested under idealised conditions with hospital samples containing higher viral loads than those from asymptomatic individuals living in the community. As such, diagnostic or operational performance of swab tests in the real world might differ substantially from the analytical sensitivity and specificity.[2]

Although testing capacity and therefore the rate of testing in the UK and worldwide has continued to increase, more and more asymptomatic individuals have undergone testing. This growing inclusion of asymptomatic people affects the other key parameter of testing, the pretest probability, which underpins the veracity of the testing strategy. In March and early April, 2020, most people tested in the UK were severely ill patients admitted to hospitals with a high probability of infection. Since then, the number of COVID-19-related hospital admissions has decreased markedly from more than 3000 per day at the peak of the first wave, to just more than 100 in August, while the number of daily tests jumped from 11 896 on April 1, 2020, to 190 220 on Aug 1, 2020. In other words, the pretest probability will have steadily decreased as the proportion of asymptomatic cases screened increased against a background of physical distancing, lockdown, cleaning, and masks, which have reduced viral transmission to the general population. At present, only about a third of swab tests are done in those with clinical needs or in health-care workers (defined as the pillar 1 community in the UK), while the majority are done in wider community settings (pillar 2). At the end of July, 2020, the positivity rate of swab tests within both pillar 1 (1·7%) and pillar 2 (0·5%) remained significantly lower than those in early April, when positivity rates reached 50%.[3]

Globally, most effort so far has been invested in turnaround times and low test sensitivity (ie, false negatives); one systematic review reported false-negative rates of between 2% and 33% in repeat sample testing.[4] Although false-negative tests have until now had priority due to the devastating consequences of undetected cases in health-care and social care settings, and the propagation of the epidemic especially by asymptomatic or mildly symptomatic patients,[1] the consequences of a false-positive result are not benign from various perspectives (panel), in particular among health-care workers.

Technical problems including contamination during sampling (eg, a swab accidentally touches a contaminated glove or surface), contamination by PCR amplicons, contamination of reagents, sample cross-contamination, and cross-reactions with other viruses or genetic material could also be responsible for false-positive results.[2] These problems are not only theoretical; the US Center for Disease Control and Prevention had to withdraw testing kits in March, 2020, when they were shown to have a high rate of false-positives due to reagent contamination.[5]

The current rate of operational false-positive swab tests in the UK is unknown; preliminary estimates show it could be somewhere between 0·8% and 4·0%.[2,6] This rate could translate into a significant proportion of false-positive results daily due to the current low prevalence of the virus in the UK population, adversely affecting the positive predictive value of the test.[2] Considering that the UK National Health Service employs 1·1 million health-care workers, many of whom have been exposed to COVID-19 at the peak of the first wave, the potential disruption to health and social services due to false positives could be considerable.

For the **UK Government summary of COVID-19 data** see https://coronavirus.data.gov.uk

Any diagnostic test result should be interpreted in the context of the pretest probability of disease. For COVID-19, the pretest probability assessment includes symptoms, previous medical history of COVID-19 or presence of antibodies, any potential exposure to COVID-19, and likelihood of an alternative diagnosis.[1] When low pretest probability exists, positive results should be interpreted with caution and a second specimen tested for confirmation. Notably, current policies in the UK and globally do not include special provisions for those who test positive despite being

Panel: Potential consequences of false-positive COVID-19 swab test results

Individual perspective

Health-related

- For swab tests taken for screening purposes before elective procedures or surgeries: unnecessary treatment cancellation or postponement
- For swab tests taken for screening purposes during urgent hospital admissions: potential exposure to infection following a wrong pathway in hospital settings as an in-patient

Financial

- Financial losses related to self-isolation, income losses, and cancelled travel, among other factors

Psychological

- Psychological damage due to misdiagnosis or fear of infecting others, isolation, or stigmatisation

Global perspective

Financial

- Misspent funding (often originating from taxpayers) and human resources for test and trace
- Unnecessary testing
- Funding replacements in the workplace
- Various business losses

Epidemiological and diagnostic performance

- Overestimating COVID-19 incidence and the extent of asymptomatic infection
- Misleading diagnostic performance, potentially leading to mistaken purchasing or investment decisions if a new test shows high performance by identification of negative reference samples as positive (ie, is it a false positive or does the test show higher sensitivity than the other comparator tests used to establish the negativity of the test sample?)

Societal

- Misdirection of policies regarding lockdowns and school closures
- Increased depression and domestic violence (eg, due to lockdown, isolation, and loss of earnings after a positive test).

asymptomatic and having laboratory confirmed COVID-19 in the past (by RT-PCR swab test or antibodies). Prolonged viral RNA shedding, which is known to last for weeks after recovery, can be a potential reason for positive swab tests in those previously exposed to SARS-CoV-2. However, importantly, no data suggests that detection of low levels of viral RNA by RT-PCR equates with infectivity unless infectious virus particles have been confirmed with laboratory culture-based methods.[7] If viral load is low, it might need to be taken into account when assessing the validity of the result.[8]

To summarise, false-positive COVID-19 swab test results might be increasingly likely in the current epidemiological climate in the UK, with substantial consequences at the personal, health system, and societal levels (panel). Several measures might help to minimise false-positive results and mitigate possible consequences. Firstly, stricter standards should be imposed in laboratory testing. This includes the development and implementation of external quality assessment schemes and internal quality systems, such as automatic blinded replication of a small number of tests for performance monitoring to ensure false-positive and false-negative rates remain low, and to permit withdrawal of a malfunctioning test at the earliest possibility. Secondly, pretest probability assessments should be considered, and clear evidence-based guidelines on interpretation of test results developed. Thirdly, policies regarding the testing and prevention of virus transmission in health-care workers might need adjustments, with an immediate second test implemented for any health-care worker testing positive. Finally, research is urgently required into the clinical and epidemiological significance of prolonged virus shedding and the role of people recovering from COVID-19 in disease transmission.

We declare no competing interests.

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Explainer: How ministry decides between RT-PCR and RTK to test for Covid-19

Annabelle Lee

6 February 2021 · 4-min read

Explainer: How ministry decides between RT-PCR and RTK to test for Covid-19

COVID-19 | Health Ministry experts have explained their rationale for choosing between RT-PCR tests and antigen-based rapid test kits (RTK-Ag) for detecting Covid-19 cases.

More accurate but take longer to process, the RT-PCR is best for confirming Covid-19 infections. It can be used for mass testing using the "pool testing" method but only where virus prevalence was low.

The RTK-Ag is useful as a mass screening tool due to its far shorter turnaround time. Even with lower accuracy, it can be used as a confirmatory test if a patient has a high probability of being infected.

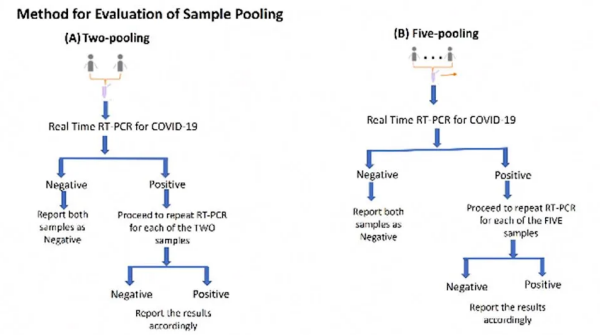
Diagnostic Covid-19 test kits	Turnaround time	Characteristics
RT-PCR Reverse transcription - polymerase chain reaction	2 - 6 hours	More accurate
RTK-Ag Antigen-based rapid test kit	30m - 1 hour	Less accurate

Among them were Institute of Medical Research (IMR) Virology Unit head Dr Ravindran Thayan and Sungai Buloh Hospital infectious disease consultant Dr Suresh Kumar Chidambaram.

RT-PCR, pool testing

The RT-PCR is called the "gold standard" test due to its high accuracy. Malaysia generally uses this test for hospital admission.

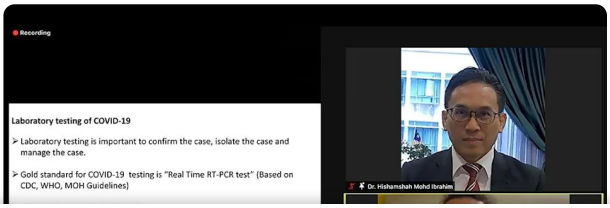
The limitations of the RT-PCR is its long turnaround time, typically between two to six hours. It is also more expensive. If a swab test is performed in a clinic, it needs to be transported to a qualified laboratory at an appropriate temperature and processed within a stipulated time frame.



Despite these limitations, Ravindran explained that RT-PCR can be more suited than the RTK for mass testing when "pool testing" is employed in some conditions.

Pool testing is when either two or five swab samples are mixed together and tested in one go. This typically saves both time and reagents.

If the result is negative, that means all samples in that pool are negative. If the result is positive, each person from the batch needs to be tested a second time and processed individually to determine who is positive.



However, Ravindran advised that pool testing should only be used in areas where Covid-19 prevalence was low, below five percent.

If used in an area with high infectivity, many repeat tests will need to be done. This will in turn require longer turnaround times and more reagents. For example, he said RT-PCR pool testing was not suitable for Sabah when cases were high there because it would have resulted in repeated tests and wasted time.

Penang Chief Minister Chow Kon Yeow recently proposed using the RT-PCR pool testing method for factory workers, a high-risk group.

Antigen-based RTK

Ravindran shared that Malaysia has been using antigen-based RTKs since May 2020 as a screening tool. It has a short 30-minute turnaround time and can be done in the clinic where the swab was taken, provided the necessary tools are present. It is thus cheaper.

However, an RTK-Ag is less accurate than the RT-PCR. Its lower sensitivity (85.5 percent) means there is more chance of false-negative results.

For this reason, an RTK-Ag is not typically used for hospital admission. Patients usually need to take an RT-PCR test for confirmation if they have a positive RTK result.

However, Suresh said doctors can make exceptions based on a patient's "pre-test Covid-19 probability". For example, a patient will be perceived as having a

confirmatory test in areas with a high Covid-19 prevalence. This will allow faster detection of positive cases with less worry about false-negative results.

RTK-Ag is also suited for areas with no laboratories or where logistics issues made it difficult for RT-PCR tests to be processed in time. This was why RTK-Ag was used for hospital admission in some areas in Sabah during the height of the Covid-19 crisis there, he said.

Airports also typically use RTK-Ag to quickly separate infected passengers from the non-infected.

Reuters

EU seeks two-month delay in talks on Hungary recovery plan -PM

The European Union is seeking a two-month delay in talks on Hungary's pandemic recovery plan, with funding likely to be delayed over contested issues as part of an "ideological war" with Brussels, Prime Minister Viktor Orban said on Friday. A European Commission spokesperson said on Thursday that...