

# RECHTSANWÄLTE DEIPENBROCK & FAUPEL

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## **Criminal charge and complaint**

**against Mr. Jens Spahn, resident at Rochusstraße 1 in 50123 Bonn, Germany**

Dear Public Prosecutor,

According to the enclosed power of attorney, I represent here the legal interests of the scientist and entrepreneur Dr. Matthias Rath, Tesla 1-5 in NL-6422 RG Heerlen.

My client is a medical doctor, scientist and founder of a non-profit research organization bearing his name. My client and his research team have been dedicated to researching the health importance of vitamins and other micronutrients for more than two decades. He is the author and co-author of more than 100 scientific publications, and the author of health books translated into more than a dozen languages. He also promotes global health and education projects through the Dr. Rath Foundation as part of the Movement of Life project.

In the context of the current COVID-19 pandemic, the research institute he funds and leads in San Jose, California, has made groundbreaking discoveries that are helping to contain the pandemic.

I have provided information about his promising and groundbreaking findings and offered his assistance and support in the letter dated Sept. 18, 2020, attached hereto as

### **Annex 1**

to which I have enclosed the studies mentioned therein on page 3.

He has advocated to enter into a discourse here on the part of the ministry led by the accused, so as to help to control the pandemic, to mitigate subsequent pandemics and, in particular, to jointly develop ways to better prepare the population against further future epidemics on a cellular basis.

The ministry led by the defendant **did not respond** to this within two months.

The undersigned then sent the letter enclosed in

### **Annex 2**

to the defendant, and again pointed out with all clarity the urgency, and that the defendant – especially against the background of the oath of office taken by him as the responsible Federal Minister of Health – has the obligation to (at least) take concrete note of these promising findings, and then, if necessary, to promote them in the interest of public health.

There was no reaction to this letter either. The ministry led by the defendant – and in this respect solely responsible – has not even confirmed receipt of my letters and the studies.

Accordingly, in the name of and on behalf of the complainant, Dr. Matthias Rath, a

### **criminal charge and criminal complaint**

is hereby filed against the defendant, Federal Minister of Health Jens Spahn, on the grounds of

**all possible offenses, in particular the realization of § 323c StGB and the realization of offenses from guarantor liability, in particular §§ 212 and 223 StGB by omission (§ 13 StGB) as well as § 222 StGB (negligent homicide) and § 229 StGB (negligent bodily injury).**

Criminal complaint according to § 230 StGB is hereby expressly made.

The complainant states that it is not his intention to criminalize political action.

Against the background of the never-ending pandemic situation – which in the meantime has led not only to a second lockdown, but also to further considerable restrictions on the fundamental rights of the entire German population and to unspeakable personal and family suffering, combined with the financial consequences for the federal government, the state, local authorities, companies and families – the complainant considers it his civic duty to call the competent public prosecutor's office and to request that it investigate the relevant violation of criminal law.

Insofar as the defendant, as a member of the Bundestag, will invoke his immunity under Article 46 (1) of the Basic Law, it should be pointed out that this immunity does not prevent the public prosecutor's office from taking up the investigation and then, if necessary, consistently bringing it to a conclusion after the end of the mandate:

With Annex 6 to the Rules of Procedure of the Bundestag, the Bundestag has granted the necessary authorization for criminal prosecution across the board for the entire legislative period and for all members of parliament. This does not apply to offenses in the area of insulting offenses that are political in nature.

That is recognizably not the issue here. I refer to the publication of Annex 6 of the Rules of Procedure of the Bundestag in BGBI I 1980, 1237. I enclose the unofficial table of contents here in

### **Annex 3.**

### **Criminal liability according to § 323c StGB**

The defendant is liable to prosecution for failure to render assistance under Section 323c of the Criminal Code. The provision is clear and easy for anyone to understand:

*“Anyone who fails to render assistance in the event of an accident or common danger or distress, although this is necessary and can be expected of him under the circumstances, shall be punished by imprisonment for not more than one year or by a fine.”*

*“Likewise, anyone who, in these situations, obstructs a person who is rendering or intends to render assistance to a third party shall be punished.”*

This provision has been implemented by the defendant in both imaginable alternatives: the fact that a case of common danger or necessity exists should be beyond question against the background of the epochal events in the context of the current pandemic.

The fact that the accused, as the responsible Federal Minister of Health, can be expected to deal with the scientific findings made available to him – especially free of charge in every respect – also requires no further discussion.

Thus, it is already established that the defendant has committed the offense of § 323c StGB 1st alternative.

The provision is also realized in the 2nd alternative:

The complainant has offered assistance in the form of providing helpful scientific-medical knowledge free of charge in every respect.

By failing to even react to this, and by refusing even to document the receipt of these findings in his ministry, the accused is hindering the complainant from actually providing this assistance to the German population, via the ministry he leads, which is solely responsible for this.

Justification or excuses are nowhere apparent.

The defendant therefore committed a criminal offense of failure to render assistance.

**§§ 212, 223, 13 StGB, homicide or (serious) bodily injury by negligence**

**§§ 222, 229 StGB, negligent homicide and negligent bodily injury, respectively**

The defendant is subject to guarantor liability; he continually commits homicide and bodily injury by omission, § 13 StGB:

As Federal Minister of Health, the defendant has a legal duty to act. He has sworn his oath of office under Article 56 of the Basic Law to devote himself to the welfare of the German people and to avert harm to them. This is precisely what he fails to do when he does not follow up on findings that are passed on to him free of charge, nor even reacts to them, and even refuses to have the receipt of the findings confirmed in his ministry. Thus, the defendant commits the elements of crime of §§ 212, 223 StGB by omitting an activity required by law.

Since no reason is apparent for not taking up the findings made available – given that they are free of charge – and forwarding them – at least! – within his ministerial department for further examination and factual treatment, he acts deliberately, with intent (*dolus eventualis*).

It is obvious that the injury or killing of people is at least negligently accepted, which is why – in any case – there is negligent commission according to §§ 222, 229 StGB (German Criminal Code).

In fact, the defendant commits the elements of the offense under Sections 212 and 223 of the Criminal Code by omission, because his position as Federal Minister of Health, in conjunction with the oath he has taken under Article 56 of the Basic Law, gives him a special guarantor status: guarantor duties can arise from contract or law.

The Federal Court of Justice has affirmed a guarantor's obligation for members of the Politburo of the former GDR from Art. 30 Par. 1, Par. 3 of the Constitution of the GDR, see BGH 48, 77, 84 pp.

Nothing else may apply to members of the federal government.

## **Necessary scientific digression**

Dear Madam Prosecutor, Dear Mr. Prosecutor,

at this point, a historical-scientific excursus is unavoidable, in order to explain the significance for public health of the findings of micronutrient research, which the complainant has been conducting for 30 years. Only in this way is it possible for the investigating authority to comprehend the – inexcusable – blatant way in which the accused obviously closes his mind to helpful scientific findings.

This requires a brief word on the growing importance of micronutrients in medicine. After numerous vitamins were discovered from the 1920s to the early 1960s, their outstanding importance for a variety of elementary metabolic processes in the body was honored with a total of nine Nobel Prizes. This development was accompanied by extensive documentation of the importance of vitamins for the prevention and treatment of common diseases.

In the second half of the 20th century, knowledge about the health significance of vitamins and other dietary supplements was systematically suppressed from the field of medicine in many countries. However, particularly in the aftermath of the Dietary Supplements Health and Education Act (DSHEA) in the USA, there was a worldwide resurgence of vitamin research and a veritable explosion of scientific and clinical studies on the health significance of micronutrients that extended far beyond the USA.

This development has immediate consequences for this criminal complaint. A strategy of systematically ignoring or even publicly discrediting the comprehensive scientific knowledge on the health significance of micronutrients/nutritional supplements may still have been possible unchallenged in earlier decades. However, in view of the thousands of medical and scientific studies on the health significance of vitamins and other food supplements, any attempt to discredit this knowledge today is doomed to failure.

This applies to the entire field of medicine, but, in connection with this criminal complaint, especially to the importance of micronutrients for strengthening the immune system, for the defense against infectious diseases, particularly those of a viral nature. The special importance of certain vitamins and micronutrients in the fight against coronavirus infections will be referred to in detail in the further course of the complaint.

The defendant is aware of the sheer volume of scientific publications on the health importance of vitamins and other micronutrients that have been published, especially in recent years, in the entire field of medicine. This is all the more so because the US National Institutes of Health (NIH) maintains PubMed.gov, the largest online library of medical and scientific publications in the world, which can be accessed by anyone worldwide free of charge.

Instead of not only taking note of this knowledge, but also using it, the defendant shuts himself off from higher knowledge because of the personal/economic obligation to be presented later.

In the meantime, the defendant has even gone so far as to publish, via his ministry – to the complete surprise of the political sphere – a website, “gesund.bund.de”, which is intended to serve the federal population as a first contact point when it comes to their health.

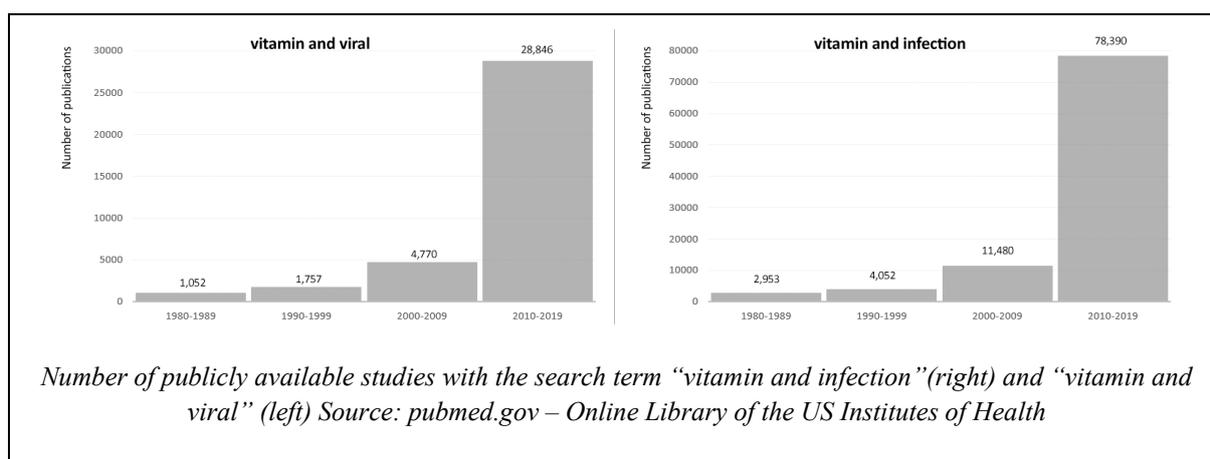
The website is used to make it clear at every conceivable point, without being asked, that vitamins and micronutrients are superfluous, even harmful.

I am submitting in

#### Annex 4

the complaint filed by the complainant against the Federal Ministry of Health, pending before the Hamburg Regional Court under file number 324 0 462/20. I refer to the contents in addition; the complainant has meticulously demonstrated there the extent to which scientific studies have proven the efficacy of vitamins and micronutrients.

For example, from 2010 to 2019, 78,390 studies related to vitamins were published in PubMed on infectious diseases. A similar picture emerges regarding the importance of vitamins in controlling and combating viral diseases. The following graph shows the rapid increase compared to past decades.



#### **A unique opportunity to strengthen the immune system and to prevent future pandemics**

The explosion of scientific knowledge about the importance of micronutrients for immune defense in general, and for the prevention of specific infectious diseases, should actually be a beacon for health policymakers worldwide, to apply and further disseminate this knowledge for the protection of the population.

The systematic ignoring of these findings and the deliberate withholding of this vital knowledge from the defendant’s own population are unacceptable. Particularly in the context of the current pandemic, such a blockade of knowledge puts tens of thousands of human lives at risk.

On the current COVID-19 situation: Studies conducted at the research institute of the accuser have impressively proven how effective vitamins and other micronutrients are in fighting the coronavirus and the infectious disease COVID-19 caused by this virus. It is precisely these findings that the complainant provided to the defendant in the letter of the undersigned dated September 18, 2020:

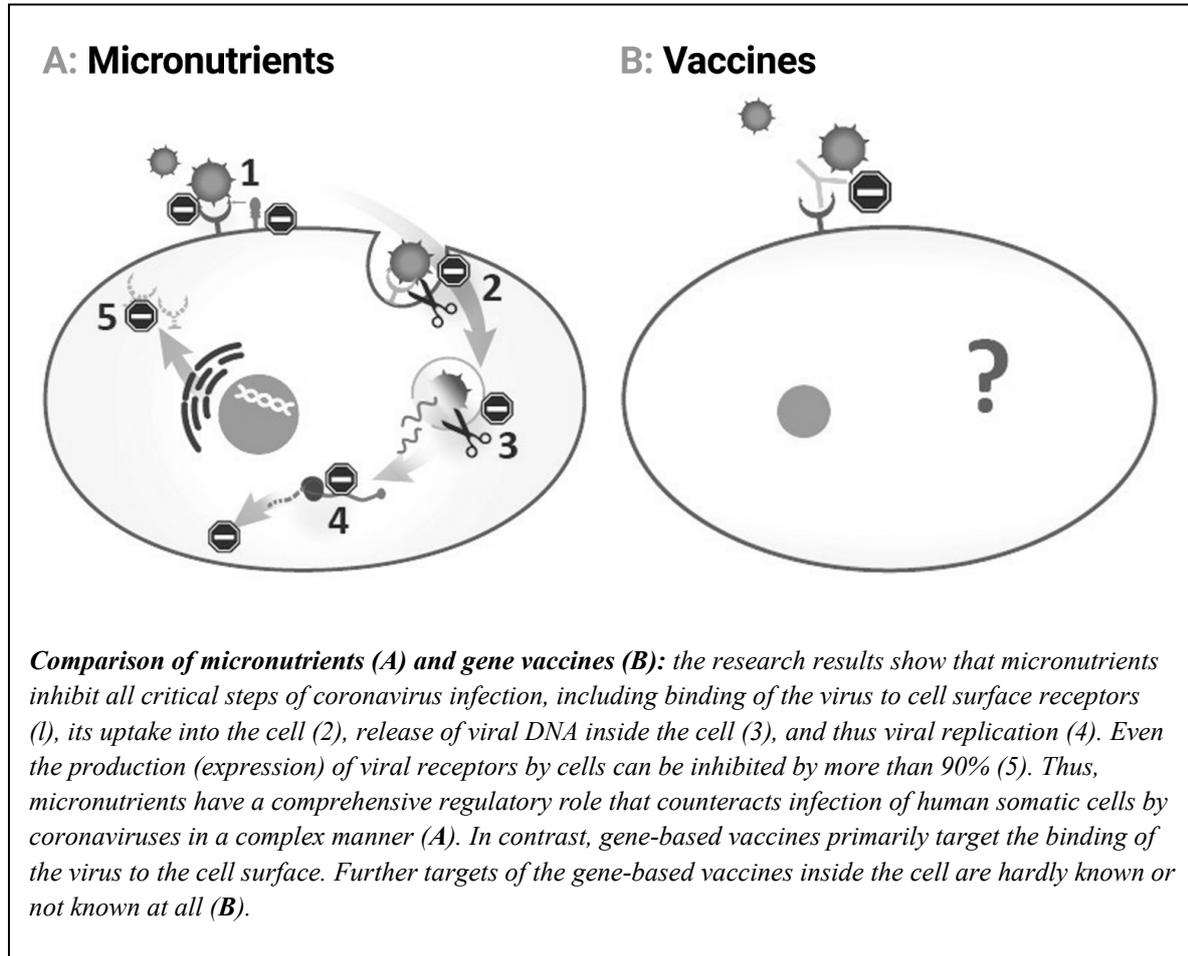
A specifically researched combination of vitamins and other micronutrients has been shown to inhibit all known key mechanisms of coronavirus infection.

These include:

1. Significant inhibition of the binding of coronavirus binding proteins (spikes) to the “anchor” proteins of the virus (ACE2 receptors) on the surface of human cells.
2. The significant inhibition of the production of anchoring proteins (ACE2 receptors) inside the cells of human cells at risk of viral infection.

3. The significant inhibition of all known key proteins (enzymes) involved in the uptake of the virus and its multiplication inside human cells.

A summary comparison between the findings of micronutrient research and the available evidence of a gene-based vaccination approach is given in the following figure.



The details of these important research results have been published or submitted for publication in scientific journals. They are already available worldwide in several languages, including German, on the following website – new research results are systematically added.

[www.dr-rath-education.org](http://www.dr-rath-education.org)

Although this research into blocking coronavirus infection using specifically designed micronutrient combinations is still in progress, the benefits of this micronutrient approach are already becoming apparent.

In contrast to vaccination strategies that solely target the binding of the virus at the cell surface, the micronutrient approach intervenes in the cell metabolism in a regulatory manner, and not only prevents the binding of the virus, but also ensures a significantly reduced production (expression) of the viral entry gates (ACE2 receptors) and, in addition, inhibits the entire chain of enzymes that are essential for the replication of the virus in the human host cell.

Because of these multi-target approaches, the micronutrient approach to long-term control of the coronavirus pandemic – and prevention of further pandemic waves – is already equivalent, if not superior, to a simple single-target vaccination strategy.

Another obvious advantage of a micronutrient strategy to combat the coronavirus pandemic, over largely experimental gene-based vaccines with unknown long-term side effects, is the almost unqualified safety of using vitamins and other natural substances.

It should be noted at this point that the complainant and his research team are not fundamental opponents of vaccination. They themselves have successfully developed protein-based vaccines with which it is possible to inhibit cancer growth. The crucial difference is that protein-based vaccines cannot, in principle, interfere with or alter the cell's gene machinery. In order to rule out long-term side effects with gene-based vaccines, and potentially devastating long-term side effects with mass vaccination, much longer observation periods are required than were available with the short-term tests of previous gene-based vaccines. The following table provides a comprehensive comparison of the micronutrient approach versus gene-based vaccines in the fight against the coronavirus pandemic.

Key Aspects	Gen-Based Vaccination	Vitamin C / Micronurients
<b>Efficacy</b>		
Effective in <i>treating</i> COVID-19	?	Yes
Effective in Prevention	No	Yes
<b>Safety concerns</b>		
Short term risks	Unknown	None
Long term risks	Unknown	None
Risk of side effects in future generations	Unknown	None
<b>Therapeutic target</b>		
Viral binding to cell	Yes	Yes
Blocking of ACE2 receptor expression	No	Yes
Blocking enzymes required for viral replication	No	Yes
<b>Further aspects</b>		
Effective against coronaviruses	One single subtype	All subtypes
Effective against mutated coronaviruses	No	Yes
Immediate availability globally	Problematic	Yes
Acceptance by population	Controversial	Yes
Development and production costs	High	Low
Distribution and Storage	Difficult	Easy

In particular, the currently unknown long-term side effects of novel gene-based vaccines – and the resulting justified fear, among broad segments of the population, of undergoing such a vaccination – already limits the chances of success of a pandemic control attempt based solely on gene vaccination.

Mandatory vaccination, as is currently being considered in some places, is not an option, as it would further strengthen already existing resistance and have uncontrollable social consequences in the long term.

In view of all these facts outlined above, it is the objective obligation of every minister – especially the one responsible – not only to take note of scientific findings in micronutrient research in the global fight against the coronavirus pandemic, but also to actively promote those micronutrients. There is no way around his obligation to at least take note of findings that have been made known without prejudice and to forward them internally for further scientific evaluation.

A minister who does not comply with these minimum obligations (even if he personally disagrees with them) is also acting irresponsibly in the criminal law sense and must therefore be held accountable.

The conduct exhibited by the accused in these times of common need – a complete ignoring of these promising micronutrient approaches and a failure to respond to the various proposals of the accuser to develop a collaborative strategy to combat the Corona pandemic over the long term, using micronutrients – is irresponsible and is directly or indirectly costing the health and lives of millions of federal citizens.

Since the accused even refuses to take note of the scientific findings in the field of vitamins and food research that have been handed over to him (to this extent free of costs), he also makes himself, in an inexcusable way, jointly responsible in the criminal law sense for the suffering and health impairment caused by the current COVID-19 virus, which at the time of the filing of the charges had already caused the death of more than 22,000 people.

### **Micronutrients – the basis of a new, preventive health care system**

The significance of the explosively increasing knowledge in the field of micronutrient research naturally goes far beyond the fight against the coronavirus pandemic. Accordingly, the obstructive attitude of the defendant towards these new findings has an indirect and direct effect on the health of people, especially in Germany and Europe.

Since it is not possible to go into detail about the comprehensive findings of micronutrient research in the various areas of medicine within the framework of this criminal complaint/proceedings, some of the most important advances in micronutrient research are presented here as examples, using another widespread disease, cancer, as an example.

- Two studies, both published in 2017, have shown that vitamin C plays a crucial regulatory role in the prevention and treatment of leukemia. Vitamin C deficiency promotes an uncontrolled increase in new blood-cell formation; conversely, sufficiently high concentrations of vitamin C lead to a normalization of derailed blood-cell production and a blockade of leukemia development.

These studies further showed that vitamin C can even reprogram already degenerated leukemia cells via its regulatory influence on the DNA in the cell nucleus in such a way that these degenerated cells specifically commit biological “suicide” – a process known in technical terminology as “apoptosis”. Thus, these newly gained scientific insights are not only significant for the prevention of leukemia, but are also of elementary importance for its therapy – via the natural regulation of cell DNA by vitamin C.

Cimmino et al. Restoration of TET2 Function Blocks Aberrant Self-Renewal and Leukemia Progression. <https://pubmed.ncbi.nlm.nih.gov/28823558/>

Agatocleo M. et al. Ascorbate regulates haematopoietic stem cell function and leukaemogenesis. <https://pubmed.ncbi.nlm.nih.gov/28825709/>

- On January 24, 2020, the U.S. National Cancer Institute, the largest cancer research center in the world, published a recommendation that high-dose vitamin C – independent of all other forms of therapy – should be used to control a wide variety of cancers. The authors concluded:

*“Given the current high financial cost of new cancer drugs, it seems rational to improve the effectiveness of current therapies by studying their clinical interactions with vitamin C. In our view, the implementation of this treatment paradigm could provide benefit to many cancer patients.”*

Bearing in mind these groundbreaking study results on the efficacy of vitamin C in controlling cancer, one would think that the health minister of an industrialized country would pass on this knowledge extensively to the citizens of his country and actively support this important research institution. Here, too, the accused remains silent and thus obstructs the access of children suffering from leukemia, and their parents, to a potentially life-saving therapy.

### **The defendant and his connections to the pharmaceutical investment business, without which his stonewalling cannot be explained**

Over the past century, healthcare in many countries has been infiltrated by economic interests, especially by the pharmaceutical industry. The fundamentals of this business model can be reduced to the following generally applicable principles:

1. The pharmaceutical industry is not a naturally grown industry, but an investment industry artificially built up over the past century.
2. The return on investment (ROI) in this investment industry is derived almost exclusively from the royalties on patented compounds.
3. Since the patentability of a product requires novelty, the entire pharmaceutical business model depends on developing and commercializing novel, synthetic molecules.
4. Vitamins and other non-patentable, natural health procedures that prove to be effective or superior to synthetic approaches endanger the foundations of the pharmaceutical business model, which depends on the patentability of its products. Therefore, in order to preserve this business model, demonstrably effective micronutrients or dietary supplements must be systematically fought by the pharmaceutical lobby.
5. To build and expand its business, the pharmaceutical investment industry made use of an army of lobbyists in various areas of society, especially in the fields of opinion-forming in medicine, the media and politics.

The defendant was first elected to the Bundestag at the age of 22. He is now 40 years old. He was a partner in a lobbying company for the medical and pharmaceutical sector from 2006 to 2010, i.e., from the age of 26. He has been in the Bundestag since 2002 and served on the parliamentary health committee from 2005 to 2009.

The overlap between lobbying activities and activities in the health committee in those years has apparently never bothered him. He gave up his partnership in the Politas GbR agency, which mainly advises clients from the medical and pharmaceutical sectors, only under political pressure.

His co-partner Max Müller is a lobbyist who was and is active for the pharmaceutical wholesaler Celesio and for Rhön-Kliniken. Until 2006, the defendant's Bundestag office was managed by his GbR partner Markus Jasper, the head of two consulting companies, namely Politas GbR and KPW Gesellschaft für Kommunikation und Wirtschaft.

The Politas GbR advertisement reads something like this:

*“Whether it's a hearing, a background discussion or a plenary debate. We'll be there for you.”*

Indeed. The defendant made the investment in a GbR for obvious reasons: a GbR (Gesellschaft bürgerlichen Rechts, a civil-law partnership) does not have to publish its transactions and shareholders. It does not have to publish in the Federal Tax Gazette.

Officially, the defendant admitted his 25% shareholding until 2010. When asked why he had concealed his involvement, he stated:

*“For reasons of practicality, we opted for the fiduciary solution.”*

Reasons of practicability are not apparent at all. Simple concealment was practiced. In May 2010, the defendant's Politas shares were at least officially sold.

I submit in

## **Annex 5**

a printout of the generally accessible free encyclopedia Wikipedia and an article in the magazine FOCUS online on this subject. According to this, the accused's closeness to the pharmaceutical industry is more than obvious.

In the meantime, it has become known to the press that the defendant, together with his spouse, as a member of the Bundestag and federal minister with the corresponding salary and an age of 40, purchased a villa in Berlin-Dahlem at a purchase price of EUR 4.7 million. With incidental costs for land transfer tax, notary, broker, etc., the full sum would have amounted to EUR 5.5 million.

The defendant has attempted to prevent media coverage of this matter. He was successful at the Hamburg Regional Court only to the extent that the purchase price may no longer be stated in the press. Afterwards, however, the press announced once again (Der Tagesspiegel) that the purchase price mentioned (EUR 4.7 million) had been confirmed by the land registry office.

The defendant comes from a simple middle-class background in Ahaus/Ottenstein in Westmünsterland. He has had an exclusively political career. At the age of 40, on a minister's salary, it is hardly conceivable, even if his husband is highly paid, that, without other earnings, the acquisition of a single-family dwelling in an order of magnitude of 5.5 million EUR could be within his means.

**Whereas in his capacity as a member of the Bundestag and openly identified lobbyist, the defendant was still allowed to influence legislative procedures in the interests of his clients from the pharmaceutical industry, this right is now denied to him in his function as Minister of**

**Health, if only against the background of the oath of office he has taken pursuant to Article 56 of the Basic Law.**

Nevertheless, the accused, instead of seizing it, rejects the helping hand and instead fights the researchers and manufacturers of vitamins and food supplements with the website gesund.bund.de, created by him, thereby completely ignoring vitamin products and the complainant.

As a private person, he could do this in principle; however, as the Federal Minister of Health, who is responsible to the German citizens as a specialist minister by virtue of the oath of office he has taken, he is liable to prosecution if he thereby not only endangers the German population or public health, but also damages their health and even accepts fatal consequences 10,000 times over.

But even that is not enough:

The defendant is also using his influence to impede people's free access to food supplements throughout Europe. The German presidency of the EU Council is to be used to further tighten legal regulations.

These political activities of the accused are related to the now exponentially growing knowledge in the field of micronutrient research, which seriously threatens the investment business with patented pharmaceutical preparations. This alone explains why the accused, as a "trained pharmaceutical lobbyist", even as the responsible Minister of Health, simply tries to ignore scientific facts that have been proven in thousands of studies, documented in all leading textbooks of biology and biochemistry, and honored by numerous Nobel Prizes.

The defendant's blocking of the potentially life-saving knowledge of micronutrient research in the field of medicine in general is already unacceptable. Such behavior becomes inexcusable in the context of a health crisis such as the current coronavirus pandemic. The defendant's deliberate censorship of the scientific facts regarding the paramount importance of micronutrients in the fight against the COVID-19 pandemic must be considered intentional – especially in the light of his professional background.

On behalf of the complainant, I would like to ask you to institute an investigation.

The complainant wishes to be informed about the result of the investigation, Section 170 of the Code of Criminal Procedure.

The undersigned requests that the file number be disclosed.

With kind regards

For Deipenbrock & Faupel, Attorneys at Law

Deipenbrock, Attorney at Law

-electronically signed-