

Declaration on the Principle of State Sovereignty and its Incompatibility with the Negotiating Text of the New WHO “Pandemic Agreement” and “Amendments to the IHR”

These agreements, which have not been validated by the People, are to be presented for adoption during the World Health Assembly in Geneva

(27 May – 1 June 2024)

Your Excellencies,
Dear Ladies and Gentlemen,

Following the latest developments in the WHO negotiations of two key new documents: on the one hand, the WHO draft “*Pandemic Agreement*” and, on the other hand, the “*Amendments to the International Health Regulations*” (IHR, 2005), we have the honor to inform you of our observations and conclusions.

First of all, we have noted that the Amendments to the International Health Regulations to be submitted to the World Health Assembly (WHA) are contrary to the WHO Constitution and to the Charter of the United Nations.

Indeed, neither the Charter of the United Nations nor the WHO Constitution provide for the possibility for the WHO to be granted powers by the signatory or by adoption of Member States.

Member States have not given their agreement for any transfer of competence in matters of public health.

Indeed, at no time is there any mention of shared or exclusive competence for the benefit of the WHO Director-General and/or the WHO Secretariat, nor for its governing bodies.

However, it appears that the proposed text and amendments, in particular revising the International Health Regulations, operate a definite transfer of competence in matters of public health, in violation of the Charter of the United Nations and the WHO Constitution.

However, the document referenced A/INB/1//INF./1 of 1 June 2022, issued by the WHO Secretariat informs the Intergovernmental Negotiating Body (INB), established by the WHA special session decision SSA(2), “*to draft and negotiate a WHO convention, agreement or other international instrument on pandemic prevention, preparedness and response*”. The Secretariat information paper also confirms that “recommendations” (article 23 of the WHO Constitution) are not international instruments legally binding on Member States.

Therefore, Amendments to the International Health Regulations allowing standing recommendations to be binding violates the WHO Constitution and the Charter of the United Nations.

Thus, the IHR cannot infringe on the sovereignty of Member States, in violation of the Charter of the United Nations and the Constitution of the World Health Organization, which have not been revised or accepted by Member States in order to provide for a possibility of competence transfer.

Furthermore, we noted certain contradictions between the draft WHO Pandemic Agreements and the Amendments to the International Health Regulations.

The WHO draft Pandemic Agreement (A/INB/9/3 version of 13 March 2024), which could be adopted by executive powers of Member States, indicates in *its article 24 and article 26 that it does not allow for the transfer of this competence to the WHO Secretariat and WHO Director-General.*

These articles are in contradiction with the Amendments to the IHR which oblige Member States to recognize WHO as the coordinating authority responsible for guiding international public health action in the event of a Public Health Emergency of International Concern (PHEIC) and to commit to follow WHO's recommendations in their international public health action.

The articles in question are as follows:

“Article 24. Secretariat

1. Secretariat functions for the WHO Pandemic Agreement shall be provided by the WHO Secretariat. [...]

3. Nothing in the WHO Pandemic Agreement shall be interpreted as providing the WHO Secretariat, including the WHO Director-General, any authority to direct, order, alter or otherwise prescribe the domestic laws or policies of any Party, or to mandate or otherwise impose any requirements that Parties take specific actions, such as ban or accept travelers, impose vaccination mandates or therapeutic or diagnostic measures, or implement lockdowns. “

This article recalls the independence and sovereignty of Member States, which cannot be subject to a supranational body.

“Article 26. Relationship with other international agreements and instruments

1. The interpretation and application of the WHO Pandemic Agreement shall be guided by the Charter of the United Nations and the Constitution of the World Health Organization.

2. The Parties recognize that the WHO Pandemic Agreement and the International Health Regulations should be interpreted so as to be compatible.

3. The provisions of the WHO Pandemic Agreement shall not affect the rights and obligations of any Party under other legally binding international instruments to which it

is party. “

Consequently, **the fact that this article 26 is included in the negotiated agreement on pandemic, which is a more far-reaching instrument than the IHR, given the need to obtain a 2/3 vote, confirms that the recommendations cannot be made binding under Article 24 of the draft agreement on pandemic.**

Moreover, this article clearly states that other legally binding international standards are not affected.

Conversely, the amended IHR would allow WHO to urge Member States to accept WHO's offer of collaboration and would enable the WHO Director-General to restrict consideration of other relevant international norms and instruments, whereas the WHO agreement on pandemic recalls that other legally binding international instruments are not affected.

Consequently, the Amendments to the IHR are in contradiction with at least three key instruments : the Charter of the United Nations, the WHO Constitution and with the draft “Pandemic Agreement”.

It must, however, be interpreted in the light of these three instruments, according to this draft agreement.

In addition, we have identified a risk of undermining the sovereignty of WHO Member States in the European Region and in the world.

We propose to demonstrate the existence of this risk for Member States to affect their sovereignty by taking the example of France in order to highlight some crucial points.

Nevertheless, this analysis is entirely transposable, in principle, to other WHO Member States in the European Region and beyond.

Thus, under French constitutional law, the respect for national sovereignty does not preclude France from entering into international agreements leading to transfers of powers, on the basis of the provisions of paragraph 15 of the Preamble to the 1946 Constitution.

However, these international commitments must be entered into with a view **to promoting peace and security in the world, and to ensuring respect for the general principles of international public law** (Cons. const. 9 Apr. 1992, no 92-308 DC § 13).

Apart from these cases, it must be concluded that the French Constitution, like many national Constitutions, **prohibits the transfer of State sovereignty in the sense given to this notion by the Treaties of Westphalia of 1648 in Europe**, as this would result in the disappearance of France status as a sovereign state. This prohibition is absolute.

The WHO draft Pandemic Agreement and the Amendments to the IHR, in their very essence, are not concluded with a view to promoting world peace and security nor respect for the general principles of public international law.

Some of the Amendments to the IHR are even contrary to several legally binding

international instruments and "jus cogens", including the Nuremberg Code.

Some measures may even have a very deleterious long-term impact on global world security.

They only intend to give the WHO total autonomy over Member States' public health policies, even though Member States did not agree to this when they signed the WHO Constitution, and there is no need for it since epidemic management programs are already in place at the national level. Furthermore, a "One Health" approach would prevent each Member State from taking measures in line with national circumstances, thus would be forced to enter into negotiations with laboratories and support the purchase of pharmaceutical products on behalf of other countries, without being able to contradict the data put forward by the WHO.

This situation is what we saw during the H1N1 pandemic, and the "Cour des Comptes" (French National Court of Accounts) report submitted to the French Senate Social Affairs Committee in September 2010, entitled "*The use of funds raised for fighting the influenza A (H1N1) pandemic*" clearly shows that following WHO pandemic alert levels bears the consequence of having to implement measures that are not in line with the epidemiological situation in France (which was the case for many other countries).

What's the point of such a policy if it doesn't favor the interests of laboratories, pharmaceuticals and similar products to the detriment of public finances and the interests of the population ?

In addition, in cases authorized by the French Constitution, transfer of powers that have the effect of undermining the essential conditions to the exercise of national sovereignty (or contain a "clause" contrary to the Constitution or that call into question constitutionally guaranteed rights and freedoms), would require a constitutional revision in order to obtain authorization to ratify them (Cons. const. 9 Apr. 1992, no 92-308 DC § 14).

The Constitution guarantees the exercise of national sovereignty and the rights and freedoms of citizens (Cons. const. 22 May 1985, no 85-188 DC ; Cons. const. 9 Apr. 1992, no 92-308 DC § 17 et 18). In this respect, **it is absolutely essential to first verify the impact of the public health measures proposed by WHO on rights and freedoms of citizens, which have already been applied during the 2020-2022 health crisis.**

Finally, the Amendments to the IHR, if adopted, would commit the finances of the Member States, thus providing guarantees in favor of foreign states, which implies that it could only be ratified by virtue of a law in accordance with a state constitution. In our case with article 53 of the French Constitution, as it touches on issues of sovereignty.

Consequently, the Amendments to the IHR cannot be adopted as they stand without undermining the sovereignty of the French State taken as an example and, more broadly, of any WHO Member States.

We would also like to draw your attention to the fact that problems of conflicts of interest, which were highlighted in the report n°12283 entitled "*The handling of the H1N1 pandemic: more transparency needed*" by Mr Paul Flynn dated 7 June 2010, have to date not been resolved.

This also applies to other WHO Member States from the European Region and the other WHO regions (Africa, The Americas, Eastern Mediterranean, South-East Asia, Western Pacific).

The report is edifying, as underlined by this excerpt: *“Serious shortcomings have been identified in the transparency of decision-making processes related to the pandemic, raising concerns about the possible influence that the pharmaceutical industry could have exercised over key decisions relating to the pandemic. It is feared that this lack of transparency and accountability could lead to a decline in trust in the advice issued by major public health organizations. [...] the Assembly noted that unregulated or covert lobbying activities can constitute a danger and undermine democratic principles and good governance. »*

It is clear from this report that no WHO Member State can rely solely on WHO recommendations to declare a state of health emergency and take health measures at the national level because the current WHO governance to this date provides no assurance as to its real objectives, given that this organization is mostly financed by private funds from companies or foundations involved in health- & disease-related services and products, such as diagnostic procedures, pharmaceutical laboratories and similar products moving in international commerce. The capitalistic links between mainstream media, digital giants, American and World financial markets and the WHO demonstrate a real situation of collusion.

This is all the more true given that the WHO draft Pandemic Agreement and the Amendments to IHR are widely requested by the private sector and for its interests.

We give two examples in a report sent to representatives, notably the Bill & Melinda Gates Foundation/GAVI and the Rockefeller Foundation.

Here we see a major conflict of interest in the governance of the WHO with its Member States, and this in violation of its own legal foundations : Charter of the United Nations, WHO Constitution, IHR, Universal Declaration of Human Rights and its own ethical principles of scientific research and public health management.

Finally, measures that restrict rights in the name of protecting public health must be necessary, appropriate and proportionate to the national circumstances of each Member State of the WHO European Region and indeed of all WHO Member States.

Many of the measures provided for in the Amendments to the IHR do not respect these criteria, hence measures which have been applied arbitrarily since 2020 without any scientific basis and contrary to Natural Law.

IN CONCLUSION WE AFFIRM:

That when the WHO constitution was adopted by Member States, no private partner was in a position to promote its private interests.

The interference of certain private partners and their demands are today clearly contrary to the interests of Member States and their peoples.

That this in no way corresponds to the intentions and principles contained in the Charter of the United Nations.

That by the 1648 Treaties of Westphalia, the European states are independent and have only undertaken to do everything possible to maintain peace between nations.

That the absolute principle of respect for the sovereignty of each State and its independence can only be adapted in order to guarantee peace and respect for the general principles of international law, “jus cogens” of which the Nuremberg code is a part.

That consequently, the principle of sovereignty of Member States prohibits any private Party or entity from ordering a State to apply any measure whatsoever, particularly in matters of public health, a fortiori when it goes against the vital interests of the nation and natural law.

Thus, no international legal instrument can confer on the WHO Secretariat, including the WHO Director-General, the power to direct, order, alter or otherwise prescribe the domestic laws or policies of any Party, or to mandate or otherwise impose any requirements that Parties take specific actions, such as ban or accept travelers, impose vaccination mandates or therapeutic or diagnostic measures, or implement lockdowns.

That natural law pre-exists States, and that it obliges them to respect and protect the right to life, the right to health and the right to respect for human integrity and dignity.

Dignity implies that the person remains master of his/her own body and him/herself, which presupposes that he/she is not alienated or enslaved for purposes other than his/her own.

Human beings cannot be enslaved to interests outside themselves. This principle is binding on the individual and the community.

The principle of dignity requires safeguarding the human person “against all forms of enslavement or degradation”.

That its corollary is resistance to oppression and tyranny.

That the world desired by WHO through its private partners is a tyranny, as defined by Socrates.

That the natural right of human beings is to fight tyranny.

That it is therefore necessary to put an end to the interventions of private parties or entities who find a financial interest or any interest contrary to that of peoples and individuals, in their actions with WHO.

That therefore Member States can no longer be bound to the WHO Constitution while private partners guide this institution.

That as it stands, any action undertaken through WHO on behalf of Member States and their populations will be contrary to international law, will violate the sovereignty of Member States and Peoples' Natural Law.

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