World Health Organization

Tedros Adhanom Ghebreyesus

Director - General

Avenue Appia 20

1211 Geneva

Switzerland

With a copy to the Commission of the European Union, the Dutch Government and the Members of the Dutch Parliament

Place, date

World Health Assembly May 2024: request to postpone the resolution on amendments to the IHR (2005) and Pandemic Agreement

Dear Dr. Tedros,

We, the undersigned, all members of the Dutch Parliament, have the honour to transmit to you the motion of the Parliament of The Netherlands, requesting, to postpone the vote on amendments to the International Health Regulations (2005) and the Pandemic Agreement during the 77th World Health Assembly in May of this year.

1. **Dutch Parliament's request to postpone the vote on the IHR and Pandemic Agreement during the World Health Assembly of 2024**

The Dutch Parliament adopted a motion on April 16, 2024, requiring the Government to request the World Health Assembly (WHA) of May 2024[1]:

> "*to postpone the vote on the amendments to the International Health Regulations (2005) and the Pandemic Agreement, because the final text of the amendments to the International Health Regulations were not presented at least 4 months prior to the World Health Assembly starting 27 May 2024, in clear violation of Article 55 para 2. of the IHR (2005)*."

The motion included the request to vote against any amendments to the International Health Regulations (2005) "IHR" and Pandemic Agreement on behalf of the Kingdom of the Netherlands, in the event that the vote would not be postponed to the World Health Assembly in 2025. In the motion the amendments to the IHR (2005) and the Pandemic Agreement are considered closely linked and with an overlapping scope.

[1] https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2024Z06259&did=2024D14485

We write to you in our capacity of the body of control over (i) the Dutch Government and (ii) the representation of the Kingdom of the Netherlands in foreign affairs.

2. Vote on IHR-amendments at 77th WHA without prior receipt of the final text (Art. 55 para. 2 IHR)

Our request refers to the ongoing project to significantly amend the International Health Regulations (IHR 2005). According to the official schedule, as communicated by the Director General and by the Chairs of the Working Group on the IHR (WGIHR), the final draft of the negotiated text may be adopted by the 77th World Health Assembly, starting on 27 May 2024.

However, we note that until today there is no final text submitted to the Member States nor published, although the procedural rules for the amendment of the IHR (Art. 55 para. 5 IHR) clearly state, that the final text that shall be voted on by the World Health Assembly, must be submitted to the Member States **at least four months** prior to the Health Assembly to all Member States.

In order to present and substantiate our concern and our legal objections we refer to the open letter, that was sent to you by the Global Health Responsibility Agency with the date of 6th March 2024.[2]

Our request :

The undersigned Members of the Dutch Parliament, herewith request and demand, that you as the Director-General of the WHO and the Head of the WHO Secretariat, do not present a draft resolution on the amendments of the IHR (and the Pandemic Agreement) to the 77th World Health Assembly.

Doing so would constitute an intentional violation of Art. 55, para. 2 IHR and can attract institutional and individual responsibility under the Draft Articles on the Responsibility of International Organizations and other available mechanisms. Therefore, we urge you to immediately issue a clear command to the WGIHR and advise the public that the IHR amendments cannot be adopted at the 77th World Health Assembly.

We observe that:

(i) The International Health Regulations (2005) are in conflict with the Constitution of WHO; Pursuant to article 2 of the WHO Constitution, the recitals and other articles clearly provide that WHO functions as an advisory body and that the Governments have the responsibility for the health of their own people; The powers of WHO can only be extended by changing the Constitution of WHO;

(ii) WHO and EU have issued a press release on June 5, 2023 stating to work towards a digital vaccination passport for international travel[3]. *A digital vaccination passport for international travel overrules the sovereignty of the Dutch Parliament and the sovereignty of the Dutch people*;

(iii) The International Health Regulations (2005) have not entered into force in the Netherlands, because the International Health Regulations (2005) were never ratified by the Dutch Parliament and the Senate; Ratification may prove difficult because the International Health Regulations (2005) are contrary to the strict provisions of the Dutch Constitution;

(iv) The amendments to the IHR (2005) adopted on 28 May 2022 by the World Health Assembly ("2022 Amendments") have not entered into force in the Netherlands,

[2] https://www.ghr.agency/?p=6775

[3] https://ec.europa.eu/commission/presscorner/detail/en/ip_23_3043.

because the 2022 Amendments have not been ratified by the Dutch Parliament and the Senate. A letter has been sent, dated August 16, 2023, from the Minister of Foreign Affairs to you, stating that the Netherlands has made a reservation.[4] However, former Member of our Parliament Wybren Van Haga[5] and Members of the European Parliament, Rob Roos c.s.[6] have pointed out that the 2022 Amendments are to be considered null and void because there is no evidence that a majority vote took place on May 28, 2022 during the World Health Assembly;

(v) A Pandemic Agreement may only enter into force in The Netherlands after ratification by the Parliament and the Senate;

(vi) The negotiations on the amendments of the IHR (2005) and the Pandemic Agreement were conducted by the European Commission of the European Union on behalf of the EU Member States. We consider the representation of the Kingdom of The Netherlands by the European Commission *ultra vires* because the Kingdom of the Netherlands is a sovereign state and health is a national competence; Therefore we submit that the Kingdom of the Netherlands cannot be bound by these negotiations conducted by the European Commission, which also took place behind closed doors.

Given the importance of the matter, we kindly request an official confirmation of receipt of this letter and your answer relating to our request.

Yours sincerely,

Members of the Dutch Parliament

[4] The letter of August 16, 2023 from the Minister of Foreign Affairs to the Director-General of WHO stating a reservation on behalf of the Kingdom of the Netherlands regarding the 2022 amendments of the IHR (2005) has not been made public.

[5] https://merylnass.substack.com/p/a-member-of-the-dutch-parliament.

[6] https://doortofreedom.org/did-the-who-actually-conduct-a-vote-on-the-may-2022-amendments/