

Members of the European Parliament

World Health Organization
Tedros Adhanom Ghebreyesus
Director - General
Avenue Appia 20
1211 Geneva
Switzerland

Brussels, 28 November 2023

URGENT

REQUEST for PROOF of simple majority in vote WHA75.12; Agenda item 16.2 of 28 May 2022

Dear Director General Ghebreyesus,

in our capacity as political control over the EU Commission (Art. 14 of the CONSOLIDATED VERSION OF THE TREATY ON EUROPEAN UNION)¹, and because the EU Commission is leading the process of negotiations re. WHO's New Pandemic Treaty and re. the amendments for the International Health Regulations on behalf of 27 EU-Member States based on a decision of the EU Council^{2,3}, we, the undersigned members of the European Parliament, see urgent need for a review of a matter that is currently in the hands of the EU Commission, the negotiations on two legal instruments of the WHO.

We, the undersigned members of the European Parliament, have taken notice of the following:

- (1) On its homepage WHO displays a pdf-document with the title ***Amendments to the International Health Regulations (2005)***; WHO Health Assembly decision of 28 May 2022; reference WHA75.12; Agenda item 16.2; dated 28 May 2022; internet reference: https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_R12-en.pdf, hereinafter referred to as the *Formal Decision*.

¹ Treaty of the EU: https://eur-lex.europa.eu/resource.html?uri=cellar:2bf140bf-a3f8-4ab2-b506-fd71826e6da6.0023.02/DOC_1&format=PDF

² Press release EU-Council of 20 May 2021: <https://www.consilium.europa.eu/en/press/press-releases/2021/05/20/eu-supports-start-of-who-process-for-establishment-of-pandemic-treaty-council-decision/>

³ Council Decision of 6 May 2022 COM(2022) 214 final 2022/0152(NLE) <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52022PC0214>

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- (2) This document is marked as a “certified copy” and was executed to apparently serve as a formal proof for and a confirmation of a vote held by the WHO’s World Health Assembly’s (WHA’s) 8th plenary meeting on 28 May 2022 on certain amendments to the International Health Regulations.
- (3) According to this Formal Decision the reason for this vote was a proposal for amendments to the International Health Regulations (2005) originally submitted by the United States of America, which included in its Annex several proposed amendments, referenced as Document A75/18 and published on the WHO homepage under link https://apps.who.int/gb/ebwha/pdf_files/WHA75/A75_18-en.pdf.
- (4) According to the Annex of the executed Formal Decision of 28 May 2022, the final vote of the WHA (reference WHA75.12; Agenda item 16.2) was taken on specific amendments to the IHR, all **focused on Art. 59 IHR 2005 regarding the period for entry into force and the period for rejection or reservations** regarding any amendments to the IHR 2005.
- (5) As a consequence of this change of Article 59 re. the periods for entry into force, rejections and reservations, also all connected articles of the IHR 2005 were amended accordingly, i.e.: Art. 55; Art. 61-63 and Art. 69 IHR.
- (6) Thus, in the essence, the vote on the Formal Decision was taken on two significant changes: **A significant reduction of the periods provided for under Art. 59 IHR (2005)** regarding (i.) the entry into force and (ii.) regarding any rejection or reservation on IHR-amendments **as follows:**
 - (i.) the period for the automatic entry into force of any amendments: Reduction from the original 24 months to 12 months (Art. 59 para. 2 amended IHR);
 - (ii.) the period for rejecting or expressing reservations on amendments to the International Health Regulations (reduction from 18 to now 10 months (Art. 59 para. 1bis amended IHR).

Furthermore, we the undersigned members of the European Parliament, acknowledge:

- (7) that based on Art. 21 and Art. 60 lit. (b) WHO Constitution:
“Decisions on other questions [than those specified under Art. 60 lit. (a) WHO Constitution] [...] shall be made by a majority of the Members present and voting.”
- (8) That therefore the 18 month period for rejection and the 24 month period for entry into force of the above mentioned significant changes can only have been validly adopted by the World Health Assembly, if the vote of its 8th plenary meeting on 28 May 2022 on these changes was correctly executed by way of a **majority of the Members present and voting.**
- (9) That without clear evidence of this vote being proper executed according to Art. 60 lit. (b) WHO-Constitution none of the two changes can have been adopted by the WHA and none of the two periods (24 month period for entry into force and the 18 month period for rejection or reservations) did ever start to run.
- (10) That provided such evidence can be correctly produced, the 24 month period for entry into force world expire on 31st May 2024 and the 18 month **period for rejection or reservations on the reduction of these periods would expire on 30 November 2023.**

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- (11) that currently the IHR are subject to a far-reaching revision-process under the guidance of the *Working Group on Amendments to the International Health Regulations (2005)*⁴, which has published a first draft by end of 2022 under the title of **Article-by-Article Compilation of Proposed Amendments to the International Health Regulations (2005)**⁵
- (12) that this first **Article-by-Article Compilation** draft of the amended IHR shows a wide range of far-reaching modifications to the IHR 2005 and that such amendments might have the potential to impact the constitutional order, the democracy and civil liberties of all WHO Member States and in particular of the EU Member States.
- (13) That under no circumstances – in particular not with a far-reaching process of IHR-revisions going on - a proper democratic process can allowed to be hindered nor reduced by any unduly shortened periods for entry into force nor by any unduly shortened periods for rejection or reservation on IHR-amendments;
- (14) that therefore it is of utmost importance that such periods will by no means be reduced as a result of violation of the due procedure as described above and foreseen under the Constitution of the WHO.

Furthermore, we the undersigned members of the European Parliament, **declare**:

- (15) that we were not in the position to find such evidence on the homepage of the WHO, i.e. evidence that the vote of its 8th plenary meeting on 28 May 2022 on these changes was indeed correctly executed by way of a **majority of the Members present and voting** as foreseen under Art. 21 in conjunction with Art. 60 lit. (b) WHO Constitution.

Therefore we, the undersigned members of the European Parliament, **demand from the Director General of the WHO**:

- (i.) to deliver **conclusive and unambiguous EVIDENCE**, that the vote of its 8th plenary meeting on 28 May 2022 (WHA75.12; Agenda item 16.2; dated 28 May 2022) on these changes was correctly executed by way **of a majority of the Members present and voting** as foreseen under Art. 21 in conjunction with Art. 60 lit. (b) WHO Constitution, i.e.:
 [i.] EXACT NUMBER of Members present at this vote: ____;
 [ii.] EXACT NUMBER of the Members voting in favor of these IHR-amendments: ____
- (ii.) to deliver this EVIDENCE in the form of an **uninterrupted video** within 48 hours via e-mail to the following addresses [...]; [...], **at latest by 30 November, 2023, 12:00 noon, CET.**

In case the requested evidence is not produced in time or not completely we, the undersigned members of the European Parliament, declare that the *Amendments to the International Health*

⁴ WHO Homepage, site of the IHR Working Group: <https://apps.who.int/gb/wgihhr/>

⁵ WHO Homepage, site of the IHR Working Group:
https://apps.who.int/gb/wgihhr/pdf_files/wgihhr1/WGIHR_Compilation-en.pdf

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Regulations (2005); WHO Health Assembly decision of 28 May 2022; reference WHA75.12; Agenda item 16.2; dated 28 May 2022 as NULL AND VOID.

Given the importance of the matter for all 27 Member States of the EU, your cooperation is highly appreciated.

Yours sincerely,

Members of the European Parliament

Robert ROOS (NL)
Rob ROOKEN (NL)
Cristian TERHEȘ (RO)
Ladislav ILČIĆ (HR)
Virginie JORON (FR)
Francesca DONATO (IT)
Hermann TERTSCH (ES)
Margarita DE LA PISA CARRIÓN (ES)
Joachim KUHS (DE)
Marcel de GRAAFF (NL)
Emmanouil FRAGKOS (EL)
Ivan Vilibor SINČIĆ (HR)