

Vote on WHO treaties in parliament thanks to a motion Federal Council should use right of objection (“opting out”) to stop the automatic adoption of the International Health Regulations (IHR).

by Ralph Studer*



Ralph Studer.
(Picture ma)

(CH-S/uc) On 26 September, the National Council and the Council of States will decide together whether WHO agreements can be approved or rejected by the Federal Council alone or whether the agreements must be submitted to parliament – the legislature – for a vote. So far, the Federal

Council has not given any indication that it intends to avert the impending loss of sovereignty for Switzerland by accepting the amended “International Health Regulations” (IHR).

“Swiss Standpoint” publishes an article by Ralph Studer, a lawyer and member of the Zukunft/CH foundation, which presents the current situation.

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At the end of June 2024, the *Committee for Social Security and Health of the Council of States* (SGK-S) voted in favour of the motion of the SVP faction “No WHO agreement without parliamentary approval”. This motion thus confirms the decision of the National Council, which already adopted this motion in mid-April 2024. A parliamentary decision on the WHO treaties – including the referendum – is thus becoming increasingly likely.

As the SGK-S stated in its media release on 28 June 2024, it voted 8-3 to accept the SVP faction’s motion “No WHO agreement without parliamentary approval”.¹ This requires that any WHO agreement must be submitted to parlia-

ment for approval. In view of the potentially binding effects of WHO resolutions, the committee believes that it makes sense to clarify the role of the Federal Assembly in advance.

It had previously obtained information on the amendments to the *International Health Regulations* (IHR), which were adopted at the WHO’s *World Health Assembly* at the beginning of June, and on the current situation regarding the WHO pandemic treaty.

Decision in line with legal opinion

The National Council’s decision² and the SGK-S’s motion mentioned above are in line with the findings of the legal opinion prepared by Prof. Dr. *Isabelle Häner*³ on the effects of the planned WHO pandemic treaty and the amended IHR on Switzerland. Häner’s conclusion is clear: Both the WHO pandemic treaty and the IHR have the potential to undermine proven constitutional and democratic principles. As a result, the WHO pandemic treaty and the adapted IHR must be submitted to parliament for approval, including the optional referendum.

Pandemic treaty postponed

Even though the pandemic treaty is not yet in place, the WHO Director-General did not speak of failure.⁴ It is now time to learn from the negotiations so far and move forward, said Director-General *Tedros Adhanom Ghebreyesus*. The plan now is to adopt the pandemic treaty by spring 2025.⁵

Until the pandemic treaty is finalised, it is crucial that the Federal Council be transparent with the people and with parliament about the strategies and objectives it is pursuing, given the far-reaching implications of this agreement. Regarding parliament, the Federal Council also has a duty and responsibility to comply with its information and consultation obligations vis-à-vis the relevant parliamentary committees. Only in this way can it be ensured that Parliament can fulfil its supervisory role over the Federal Council.

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Amended IHR unacceptable

The picture is different for the IHR. The wording has been adopted, although the validity of the adoption is more than questionable due to the violation of Art. 55 IGV.⁶ There are clear reasons why these IHR are unacceptable to Switzerland:⁷ One example is the unilateral declaration of a pandemic emergency and a public health emergency of international concern by the WHO Director-General, who has no democratic legitimacy. Both only need to represent a potential (!) danger. And this without any possibility of verification or control and without the consent of the WHO member state concerned. Or another aspect is the obligation of WHO member states to restrict freedom of speech and expression in the supposed fight against misinformation and disinformation. This is because the WHO has supreme authority over the truth and accuracy of information.

Compulsory referendum?

In this context, the question of whether the amended IHR are subject to a compulsory referendum due to the far-reaching and drastic encroachment on Switzerland's sovereignty and the freedoms guaranteed by the Federal Constitution would have to be clarified as a matter of urgency. In that case, the IHR would have to be submitted to the vote of the people and the cantons.

Clear demand

Even if the decision of the National Council and the current motion of the SGK-S show that parliament has become more critical of the Federal

Council and the WHO agreements, the sword of Damocles still hangs over Switzerland regarding the IHR. With the adoption of the IHR amendments on 1 June 2024, they will automatically come into force for Switzerland as a WHO member state one year later – on 1 June 2025 – unless Switzerland objects to them within the next ten months. *Zukunft CH* therefore called on the Federal Council in an open letter to exercise⁸ its right of objection to these far-reaching IHR and to declare its rejection of the amendments to the WHO (so-called "opting out"). A corresponding petition with this demand was also running until the end of August.⁹

Source: <https://www.zukunft-ch.ch/bern-who-vertraege-vors-parlament-immer-wahrscheinlicher/>, 14 August 2024

(Translation "Swiss Standpoint")

¹ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20223546>

² <https://www.zukunft-ch.ch/nationalrat-will-bei-who-abkommen-mitentscheiden/>

³ <https://www.zukunft-ch.ch/rechtsgutachten-zeigt-who-vertragswerke-muessen-vors-parlament/>

⁴ <https://www.nau.ch/news/europa/keine-einigung-auf-globales-pandemieabkommen-66767922>

⁵ <https://www.nau.ch/politik/international/who-verhandelt-weiter-uber-pandemie-abkommen-66772302>

⁶ <https://www.zukunft-ch.ch/nach-den-who-verhandlungen-wo-stehen-wir/>

⁷ https://abfschweiz.ch/wp-content/uploads/abfschweiz_flyer_IGV_final_19.6.24.pdf

⁸ <https://www.zukunft-ch.ch/offener-brief-ablehnung-der-igv-aenderungen/>

⁹ <https://abfschweiz.ch/online-petition/>