

Switzerland

Health policy must remain sovereign

Keeping a watchful eye on the WHO

(Edit./sv) The tireless work of parliamentarians and committed experts has led to a partial victory. It should no longer be possible to simply override the cantons and the electorate – Switzerland’s supreme sovereign – with a simple reference to international regulations.

The Council of States, representing the cantons, has recently followed the National Council in deciding that agreements with the WHO must be submitted to the federal parliament. The sovereignty of our health policy must not be restricted by international bodies.

In response to questions regarding the content and significance for our country of the amendments to the *International Health Regulations* (IHR) and the new *Pandemic Treaty* planned by the *World Health Organization* (WHO), the Federal Council had previously issued the following statement (excerpt):

“[...] In particular, the new treaty will have no impact on the sovereign right of states to legislate and to decide on the implementation of their national health policy and any measures that may be necessary in the event of a pandemic. Switzerland does not enter international treaties that violate fundamental rights and principles. Finally, the ongoing negotiations do not include any possibility for the WHO to impose legally binding health measures on its member states in the event of a pandemic.”¹

However, the parliament wanted more details. In June 2022, a motion was therefore submitted, which was adopted by the National Council in April 2024 and by the Council of States on 26 September. The following mandate to the Federal Council has thus become binding:

Submitted text: “The Federal Council is instructed to submit any WHO agreement or instrument drafted by the WHO that could later become binding on Switzerland through soft law to Parliament for approval.”

Reason: “At the special session of the *World Health Organization* (WHO) in November/December 2021, the WHO member states adopted a recommendation to develop a WHO convention, agreement or other international instrument for pandemic prevention and preparedness and to strengthen the *Inter-*



The Council of States demands to be consulted by the Federal Council on WHO agreements.

(Picture Parlamentsdienste 3003 Bern/Franca Pedrazzetti)

national Health Regulations (IHR). The *Federal Office of Public Health* (FOPH) appears to support this process. Efforts are currently underway, coordinated by the *Intergovernmental Negotiating Body* (INB) set up by WHO, to submit a report and a proposal for an international “instrument” to the WHO by May 2023. As the discussion about the UN Global Compact for Migration has shown, there is a risk for Switzerland that this international “instrument” could develop binding legal force. To take this risk in the area of soft law into account, such an international “instrument” must be submitted to parliament.”²

During the meeting of the Council of States on 26 September, Federal Councillor *Elisabeth Baume-Schneider* (SP) stated³ that the *International Health Regulations* are an “existing, legally binding instrument that has been in force in Switzerland for over seventy years”. She added that the FOPH is in the process of reviewing the amendments adopted in Geneva on 1 June 2024. “According to our initial analysis, the adopted adjustments are of a technical nature and limited scope.” Changes at the legislative level should not be necessary, which is why the authority to adopt them lies with the Federal Council. It has until 19 July 2025 to make its decision. However, she will propose to the Federal Council that a voluntary consultation be held on the matter.

Since the unlawful adoption of the amendments to the IHR – the WHO violated its own con-

stitution by not adhering to a four-month lead time before the vote – these amendments have been met with massive criticism from many sides.⁴

According to Federal Councillor Baume-Schneider, Switzerland will continue to participate in the negotiations on a new pandemic agreement in accordance with “guidelines set by the Federal Council”; the next meeting will take place in November. It is planned to adopt it at the next World Health Assembly of the WHO in spring 2025. Participation in the negotiations would enable Switzerland’s interests to be safeguarded. These include, for example, “a very sensitive topic, which is also controversial, but important for Switzerland – the protection of intellectual property.”

Is Ms Baume-Schneider addressing the interests of the pharmaceutical industry, which wants to have its patents protected, for example on vaccination products? It is hardly a matter of protecting the population from disproportionate “measures” ...

In her response, Federal Councillor Baume-Schneider assured the motion’s authors that the WHO pandemic treaty would “in any case” be submitted to parliament for a vote, as it was of great political importance, and at the same time recommended that the motion be rejected. However, the Council of States did not comply with this recommendation when it was adopted (29 to 8 votes).

In the coming months, it will be important to actively engage in the further treatment of the International Health Regulations and the Pandemic Treaty – an essential prerequisite for maintaining democratic processes in our country.

(Translation “Swiss Standpoint”)

¹ <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20234397>

² <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20223546>

³ <https://www.parlament.ch/de/ratsbetrieb/amtliches-bulletin/amtliches-bulletin-die-verhandlungen?SubjectId=65923>

⁴ <https://multipolar-magazin.de/meldungen/0061>