

To:

MEPs

Ms CHRISTINE ANDERSON, Identity and Democracy (Germany)

*Mr ANGEL DZHAMBASKI, European Conservatives and Reformists Group
(Bulgaria)*

Ms VIRGINIE JORON, Identity and Democracy (France)

Mr IVAN VILIBOR SINČIĆ, non-attached Member (Croatia)

Ms ANNA ZALEWSKA European Conservatives and Reformists Group (Poland)

Mr MISLAV KOLAKUŠIĆ, non-attached Member (Croatia)

Mr MAXIMILIAN KRAH, Identity and Democracy (Germany)

Mr MILAN UHRIK, Slovakia- Hnutie Republika (Slovakia)

Concerns: EU negotiations with the WHO for a Pandemic treaty and changes to the International Health Regulations (IHR)

Dear Meps,

Movimiento Iustitia Europa and *Door to Freedom* are non-profit organizations keenly following how COVID-19 is affecting EU and world-wide policy. We perceive a real risk for the fundamental rights and freedoms, including basic medical freedoms, of citizens because of the various pandemic preparedness measures currently considered by governments around the globe.

With this letter we would like to express our strong concern about the directions taken by negotiations for a Pandemic treaty (CA+) and changes to the IHR currently negotiated by the EU and its member states with the World Health Organization (WHO) in Geneva.

We understand that, taken together, the Pandemic treaty and the new IHR would grant the WHO incursive competencies over the EU and its member states, without



any serious oversight over the actions and the decisions taken by the Director of the WHO. We are not convinced of both the legality and the appropriateness of such a situation.

We understand the European Union is not itself a signatory to the WHO. Still, based on article 168(5) TFEU the European Commission is currently negotiating for the EU member states in Geneva.

Article 168(5) TFEU only grants the EU supporting competencies. It can only serve as the basis for the kind of policy initiatives as taken within the EU legal order by Regulation 2022/2371 on serious cross-border threats to health.

This legal basis cannot under any circumstance be used to take policy decisions or negotiate international agreements that would seriously affect the fundamental rights of EU citizens under the Charter of Fundamental Rights and primary European law.

It is, thus, not in any way a suitable basis for negotiations for any international agreement implying the acquisition of sovereign powers over the European Union or its member states by an international organization like the WHO.

We therefore urge the Council and the European Commission to remain firmly within the bounds of the public health legal basis delineating ongoing negotiations in Geneva.

We would like to ask you to confirm that the EU is not negotiating *any* member state transfer of sovereignty to the WHO. We would also like to ask for more details on what limitations you consider article 168(5) TFEU to imply for the participation of the EU in negotiations for a Pandemic Treaty and changes to the IHR and how you are making sure that there will not be any transfer sovereignty to the WHO and its Director.

In the next few days, we will be submitting these questions to the WORLD HEALTH ORGANIZATION, the EUROPEAN COMMISSION and the COUNCIL, and we invite you to request this information as well.

TO WORLD HEALTH ORGANIZATION

1. What amendments have been proposed or rejected in the drafts of the International Health Regulations by the EU delegation negotiating at WHO headquarters in Geneva?
2. What amendments have been proposed or rejected in the drafts of the Pandemic Treaty by the EU delegation which are being negotiated at the Geneva headquarters of the WHO?
3. Are the competences and practical negotiations of the EU delegation limited in accordance with the applicable legal basis in EU law (article 168(5) TFEU)? Is the WHO examining whether the EU proposals are in accordance with limitations implied by the legal basis in EU law?
4. On what legal basis of WHO's internal regulations has it accepted the European Commission or the EU Council as a valid interlocutor for the INTERNATIONAL HEALTH REGULATIONS?

EUROPEAN COMMISSION AND COUNCIL OF THE EU

Since the beginning of the negotiations of the TREATY OF PANDEMIA and THE INTERNATIONAL HEALTH REGULATION, which is being negotiated in GENEVA at the WHO headquarters, do you certify:

- 1.1.- What amendments have been proposed in the drafts by the EU in both legal instruments?

1.2. Which amendments have been rejected in the drafts by the EU in both legal instruments?

1.3 What are the amendments being negotiated in the drafts by the EU in both legal instruments?

2.- Under which WHO internal legal norm is the EU delegation negotiating the amendments to the International Health Regulations given that the EU is not formally a member to the WHO?

2.1. Is the EU part of the International Health Regulations 2005 currently being updated? Please answer YES or NO.

3. Considering article 168(5) TFEU, the limited legal basis at the heart of the negotiating directives, do the Commission or the Council consider that certain aspects of the Pandemic Treaty or amendments to the IHR to fall outside of the currently existing negotiating directives? If so, please specify which ones and how this is solved by the negotiating EU delegation and the member states.

With highest esteem,

Strasbourg, December 12, 2023

Meryl Nass
Door to Freedom

Luis María Pardo
Movimiento Iustitia Europa