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OPINION ON PUBLIC HEALTH AND INTERNATIONAL COOPERATION IN THE CONTEXT OF COVID-19

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The Opinion on public health and international cooperation in the context of Covid-19
(Plenary Assembly – 15 October 2020 - Adoption: 37 votes for and five abstentions)

SUMMARY

The current Covid-19 pandemic has highlighted the importance of reaffirming the fundamental nature of the right to health for all people around the world. In this opinion, the CNCDH emphasises the importance of non-discrimination in access to health by stressing that it is imperative to ensure the accessibility, adaptability and effectiveness of health systems, in France and internationally, including in the most vulnerable countries.

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INTRODUCTION

1. Although health has become a national and international priority in collective action against the Covid-19 pandemic, the very notion of a "right to health"[1] has been somewhat eclipsed as far as its legal aspects are concerned in the face of scientific discourse and the urgency of the situation on the ground. The right too often appears as no more than a simple formal constraint in an emergency dire enough to legitimise political decisions. Nonetheless, a fully developed legal framework has been in place since the Second World War, at national and international level alike, enshrining the right to health as a fundamental human right. Health is both an individual right and a collective good, in ongoing interaction between rights and responsibilities. It is essential to recognise the right's cardinal importance rather than regarding it as something taken for granted, when the pandemic has demonstrated our individual fragility and collective vulnerability.

2. Even before the Covid-19 crisis, the CNCDH had presented a critical assessment of the French situation in its Opinion of 22 May 2018 entitled "Agir contre les maltraitances dans le système de santé" (Acting against abuse in the health system), which is still very much relevant today. Likewise, in the context of its study on human rights in Overseas France, it adopted an Opinion on "le droit à la protection de la santé dans les territoires ultramarins" (The right to health protection in Overseas territories) on 17 October 2017, emphasising the particularly concerning situation in French Guiana and Mayotte in this respect. Now, two years later, the health crisis has made it all the more necessary to carry out reforms that take full account of the human rights approach recommended by the CNCDH in its Opinion of 3 July 2018. In this new context, the CNCDH can do no other than emphasise the international aspects of a crisis that is nothing less than a worldwide challenge, calling for reinforced solidarity around "global public goods" in an interdependent world, as well as the fundamental importance of the universality, indivisibility and effectiveness of human rights.

3. The post-war international order's founding texts enshrine the importance of public health in the mandates of specialised organisations. In May 1944, the Declaration of Philadelphia assigned the International Labour Organisation (ILO) the goal of contributing to achievement of "*adequate protection for the life and health of workers in all occupations*" (III, g). In 1946, after having defined health as "*a state of complete physical, mental and social wellbeing*", the Preamble to the WHO's Constitution proclaimed that "*the enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition*". Asserting that "t*he health of all peoples is fundamental to the attainment of peace and security*", it emphasised

1. For international sources of the right to health, see Factsheet no.31 "The Right to Health" published by the Office of United Nations' High Commissioner for Human Rights and the WHO in 2009, and Toolkit on the Right to health https://www.ohchr.org/EN/Issues/ESCR/Pages/Health.aspx.

that "*unequal development in different countries in the promotion of health and control of disease, especially communicable disease, is a common danger*". In other words, health was already regarded as a fundamental individual right, understood as the right to "*enjoyment of the highest attainable standard of health*" that an individual is capable of achieving, and as a "global public good" for the whole international community in the face of a common danger. In 1948, the *Universal Declaration of Human Rights* stated that "E*veryone has the right to a standard of living adequate for the health and well-being of himself and of his family*", referring in particular to "medical care and necessary social services" (Art.25 §.1). It was not until 1966, however, that the I*nternational Covenant on Economic, Social and Cultural Rights* specified its legal scope, when the States Parties "r*ecognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health*" (Art.12 §.1). This involves their ensuring "*the full realisation of this right*" by taking "*the steps necessary for: (...) the prevention, treatment and control of epidemic, endemic, occupational and other diseases" (Art.12 §.2 c) and "the creation of conditions which would assure to all medical service and medical attention in the event of sickness*" (Art.12 §.2 d).

4. There have been a great many more treaty commitments since then in the context of the United Nations, including on women, children, migrant workers and the disabled[2]. Treaty bodies and Special Rapporteurs alike have stressed how important these legal obligations are in the context of the health crisis[3]. At council of Europe level, the Committee on Bioethics adopted a Statement in April 2020 which specified that "the principle of equity of access to health care laid down in Article 3 of the *Oviedo Convention* must be upheld, even in a context of scarce resources. It requires that access to existing resources be guided by medical criteria, to ensure namely that vulnerabilities do not lead to discrimination in the access to healthcare. This is certainly relevant for the care of COVID-19 patients, but also for any other type of care potentially made more difficult with confinement measures and the reallocation of medical resources to fight the pandemic. The protection of the most vulnerable people in this context is indeed at stake, such as persons with disabilities, older persons, refugees and migrants. This concerns decisions to allocate scarce resources, to provide necessary assistance to those most in need, as well as protecting and supporting vulnerable individuals affected heavily by the consequences of confinement measures."[4]. In this regard, the CNCDH wishes to reassert the paramount importance of the principle of non-discrimination in access to medical services as a fundamental right for all.

2. Several treaty bodies have also adopted general observations in their fields of competence, such as the Committee for the Elimination of Discrimination against Women's General Recommendation no.24 on "Women and Health", and the Committee on the Rights of the Child's General Comment no.15 on "The right of the child to the enjoyment of the highest attainable standard of health (Article 24 of the Convention of the Rights of the Child)".

3. In August 2020, the Office of the High Commissioner published a 60-page systematic collection of these statements under the title Compilation of Statements by Human Rights Treaties Bodies in the Context of Covid-19.

4. DH-BIO Statement on human rights considerations relevant to the Covid-19 pandemic, 14 April 2020.

5. With the United Nations General Assembly's adoption of the "2030 Agenda" in 2015, the international community set itself sustainable development goals (SDGs) to be achieved by 2030, in particular in the sphere of health with Goal 3 "Ensure healthy lives and promote wellbeing for all at all ages". It is also worth noting that twelve other goals (out of seventeen) directly concern health or health determinants: end poverty in all its forms everywhere (SDG 1), zero hunger (ODD 2), achieve gender equality and empower all women and girls (SDG 5), ensure availability and sustainable management of water and sanitation for all (SDG 6), promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all (SDG 8), combat natural disasters and air pollution (SDGs 11 and 12), take urgent action to combat climate change and its impacts (SDG 13) and combat violence (SDG 16).

6. At international level, the World Health Organisation (WHO) plays a central role in achievement of sustainable development goal 3, for which it coordinates a global action plan. The WHO has also set itself its own highly ambitious goals through its 13th General Programme of Work (GPW13) 2019-2023: "promote health, keep the world safe, serve the vulnerable". Three strategic priorities ("the triple billion") have been set for this period: a billion more people benefiting from universal health coverage; a billion more people better protected from health emergencies; and a billion more people enjoying better health and wellbeing. It has to be said that these goals will be all the more difficult to achieve in the context of Covid-19 and when the multilateral system is in crisis.

I. THE UPSURGE IN THE COVID-19 CRISIS AND THE NEED FOR RAPID COORDINATED INTERNATIONAL ACTION

7. On 30 January 2020, following the advice of the Emergency Committee convened under the International Health Regulations (IHR), the WHO Director-General declared the outbreak of the novel coronavirus (2019-nCoV) "an international public health emergency" (IPHE) requiring immediate coordinated international action. On 11 March 2020, the WHO declared Covid-19 an epidemic.

8. The scale of the crisis and its implications in the medical, economic and social spheres, the serious failings observed in developed and developing countries alike (shortages of various medicines and medical equipment, restrictions on exporting some of these products, disruption of international trade, etc.), and approaches too often adopted without consultation, emphasised the importance of a better coordinated international reaction. The United Nations General Assembly's Resolution 74/270 (2020) on "Global solidarity to fight the coronavirus disease 2019 (COVID-19) pandemic", adopted on 2 April 2020[5] called for general mobilisation to confront the pandemic and

5. https://undocs.org/fr/A/RES/74/270

move forward in order to ensure universal access to medicines and medical products, longstanding problems that had become all the more acute with the pandemic. The United Nations system was assigned a central role in coordinating the international response[6].

9. The WHO is at the heart of the operational response. It plays an essential role through coordination of the International Health Regulations (IHR 2005)[7], a binding set of rules for members of the Organisation and cornerstone of the international mechanism with regard to global health security. The IHR play a key role in that they aim "*to prevent, protect against, control and provide a public health response to the international spread of disease in ways that are commensurate with and restricted to public health risks, and which avoid unnecessary interference with international traffic and trade*".

II. ENSURING SAFE, EQUITABLE, GLOBAL ACCESS TO DIAGNOSIS, TREATMENT AND VACCINES

10. The very title of Resolution 74/274, adopted by the United Nations General Assembly on 20 April 2020, emphasises the importance of international cooperation aiming to ensure global access to medicines, vaccines and medical equipment in response to Covid-19. Basing itself largely on the Resolution, the 73rd World Health Assembly (WHA) calls for "*the universal, timely and equitable access to, and fair distribution of, all quality, safe, efficacious and affordable essential health technologies and products, including their components and precursors, that are required in the response to the COVID-19 pandemic as a global priority, and the urgent removal of unjustified obstacles thereto, consistent with the provisions of relevant international treaties, including the provisions of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and the flexibilities within the Doha Declaration on the TRIPS Agreement and Public Health*[8]".

11. It should be borne in mind that the impact of protection of intellectual property on access to medical products has been a subject of much debate for many years now without any satisfactory solutions being found, as it is by no means easy to establish the right balance between incentives to research and development, respect of intellectual property rights and consequences on the health sector. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) enables countries to

6. "United Nations Comprehensive Response to COVID-19 Saving Lives, Protecting Societies, Recovering Better", June 2020, https://www.un.org/sites/un2.un.org/files/comprehensive_response_to_covid-19_june_2020.pdf
7. https://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000467563&categorieLien=i
8. WHA Resolution 73.1 of 19 May 2020 "Response to Covid-19" https://apps.who.int/gb/ebwha/pdf_files/WHA73/A73_R1-en.pdf

take steps to restrict or limit intellectual property rights, including for public health purposes. But the flexibilities provided for in the Agreement and their interpretation have not proved to be sufficient to prioritise public health and facilitate access to existing medicines at affordable prices while encouraging research and development with regard to the manufacture of new medicines.

12. The Declaration on the TRIPS Agreement and Public Health adopted at the Fourth WTO Ministerial Conference (Doha, 14 November 2001) reasserted the primacy of health issues over purely commercial issues. In particular, it sought to alleviate fears of seeing the TRIPS Agreement make access to certain medicines more difficult for developing countries. The Doha Declaration states (Art.4) that the TRIPS Agreement "c*an and should be interpreted and implemented in a manner supportive of WTO members' right to protect public health and, in particular, to promote access to medicines for all*". WTO Members agree not to try and prevent other Members from resorting to the flexibilities provided for in the TRIPS Agreement. Hence, the Agreement provides that each Member has the right to grant compulsory licenses and the freedom to determine what constitutes a "*national emergency or other circumstances of extreme urgency*", including public health crises (Art. 31). Further flexibility was later to be included in the form of a special compulsory license (Art. 31 bis) exclusively intended for export of medicines to address the problems that WTO Members with inadequate or no manufacturing capacities might encounter in making effective use of compulsory licenses.

13. It has to be said that little use has yet been made of compulsory licenses. As for special compulsory licenses, only Canada has so far made use of them, for the purpose of exporting antiretroviral medicines to Rwanda in 2007 in order to combat AIDS. In this context, it would appear important to promote voluntary licenses along with actions such as those carried out by the Medicines Patent Pool (MPP), which aims to improve access to medicines and healthcare technologies via patent pools for public health, in particular in developing countries, and support innovation by granting non-exclusive voluntary licenses.

14. It is also important that the WHO, WIPO and WTO step up their cooperation with a view to creating closer connections between access to healthcare products, innovation and intellectual property, and studying possibilities for further flexibilities in this field[9].

15. Recognition of the future Covi-19 vaccine as a global public good makes a comprehensive response both necessary and urgent in order to speed up research and development, production and dissemination, ensure "safe, equitable, global access to diagnosis, treatment and vaccines" and mobilise the necessary funding.

9. Promoting Access to Medical Technologies and Innovation - Intersections between Public Health, Intellectual Property and Trade, 2nd edition (2020), WHO-WIPO-WTO. https://www.wipo.int/edocs/pubdocs/fr/wipo_pub_628.pdf

16. Several initiatives have been launched in this respect. In response to a call from G20, an "Initiative for accelerating access to Covid-19 tools" (ACT Accelerator) was implemented by the WHO, the European Commission, France and the Bill & Melinda Gates Foundation. The Covax Facility for universal access to Covid-19 vaccines, which is closely associated with it, aims to guarantee access to substantial quantities of vaccines for all countries, and ensure that low- and intermediate-income countries in the bottom tier are provided with vaccines. The European Union (EU) Strategy on Covid-19 Vaccines, presented by the European Commission on 17 June 2020, aims to "*ensure the quality, safety and efficacy of vaccines. Securing swift access to vaccines for Member States and their populations while leading the global solidarity effort*" and to "*ensure equitable access to an affordable vaccine as early as possible*". In June 2020, in coordination with the European Commission, Germany, France, Italy and the Netherlands launched a "European Vaccine Alliance", tasked with negotiating with the main pharmaceutical laboratories in order to ensure that Member States' populations are supplied with vaccines.

17. The CNCDH has doubts as to how well these various initiatives are coordinated and stresses the importance of converging all efforts towards ensuring universal access to vaccines as required by the notion of public good, which cannot be limited by the terms of bilateral agreements. The fears expressed by certain countries, developing countries in particular, of being unable to benefit from vaccines and treatments due to their cost or availability must be taken into account and alleviated at global level. In this respect, a call for the sharing of healthcare technologies, knowledge, intellectual property and data was launched by a group of countries in the context of the WHO (COVID-19 Technology Access Pool, C-TAP).

18. The CNCDH points out that scientific and medical discoveries result from major investment in the research sector, basic research in particular. This requires increasing the public funding devoted to public research and doing so over the long term.

19. The CNCDH considers that European mechanisms in support of research should be accompanied by guarantees of transparency on the share of public investments devoted to development of such healthcare products and on production costs, along with guarantees in terms of price, intellectual property and availability.

20. The CNCDH recommends that the public authorities:

[Rec. 1] Implement policies involving the various stakeholders in each step of the response (prevention, treatment and care, vaccination, etc.), the public at large in particular, so as to ensure the appropriateness and effectiveness of measures taken.

[Rec. 2] Foster the emergence of strong political commitment within the various

international fora concerned (G7, G20, United Nations, international financial institutions, etc.) in order to mobilise funding equal to the issues at stake and promote rapid concrete solutions for safe, equitable, universal access to diagnoses, treatments and vaccines.

[Rec. 3] Aim for international availability of Covid-19 treatments and vaccines, in particular via the mechanisms already in place and by facilitating possibilities for local production of such vaccines and medicines, and generic and biosimilar versions.

[Rec. 4] Reassert the right to make full use of the TRIPS Agreement and Doha Declaration, in particular the flexibilities they provide for, including compulsory licenses, in order to protect public health and promote access to medicines for all.

[Rec. 5] Ensure the transparency of investments in research and development for Covid-19 vaccines and treatments, in particular with regard to totals and proportions of public financing, European financing and financing by international agencies in such investments.

[Rec. 6] Accompany public funding of research and development on health products with guarantees on access, price, transparency and intellectual property rights.

III. A NEW BALANCE TO BE SOUGHT BETWEEN HEALTH IMPERATIVES AND RULES ON INTERNATIONAL TRADE IN HEALTH GOODS

21. The suddenness and scale of the crisis have created major disruptions in international trade that directly impact the health situation: shortages of pharmaceutical products and medical equipment, restrictions on exportation of certain of the products, and breakdowns in supply chains that affect the less advanced countries most of all. In the face of these serious failings, a new approach is required if health imperatives are to be taken fully into account.

22. Admittedly, consideration of health protection imperatives is fully provided for in the texts underpinning the WTO, which plays a pivotal role in the multilateral trade system. Article XX-b of the 1947 General Agreement on Tariffs and Trade (GATT) provides for exceptions, including with regard to protection of health and human life. Subject to certain reservations, Article XIV (General Exceptions) of the General Agreement on Trade in Services (GATS) provides that "*nothing in this Agreement shall be construed*

to prevent the adoption or enforcement by any Member of measures (...) necessary to protect human, animal or plant life or health" (Art. XIV, b). In addition, special technical rules may be applied; such as those on General Elimination of Quantitative Restrictions – Article XI-2a of GATT ("Export prohibitions or restrictions temporarily applied to prevent or relieve critical shortages of foodstuffs or other products essential to the exporting contracting party"). WTO Members have made use of these possibilities. But such measures curbing exportation of medicines and protective equipment have an impact on supply chains and the most vulnerable countries. In March 2020, the G20 stressed the importance of trade measures implemented being "targeted, proportionate, transparent and temporary".

23. The scale of the crisis and its repercussions make it all the more necessary to make rapid substantial progress on these questions. Initial proposals have been made by a group of WTO Members including the EU (the "Ottawa Group") with a view to facilitating trade in health goods. They bear on transparency, the suspension of restrictive measures, and the need to maintain open, predictable trade in agricultural and agrifood products in order to avoid adverse effects on food security and human health. The Group also proposes to work on measures that could be taken in order to facilitate trade in medical supplies and help ensure diversified, flexible and resilient supply chains. The EU, which carries significant weight in international trade and within the WTO, must come out in favour of these evolutions. The traditionally major differences of opinion on these questions, combined with the WTO's paralysis (due in particular to America's position), does not suggest there will be much of a consensus on these matters. The long hard road to a multilateral agreement may well be taken but at all events it will require strong political commitment on the part of the initiative's promoters, including the EU and France.

24. The CNCDH recommends that the public authorities:

[Rec. 7] Continue with the initiatives alongside the European Commission and Member States with a view to advancing thought on what measures might be taken in the context of the WTO to address current failings with regard to trade in health goods and ensure diversified, flexible and resilient supply chains. Continue giving thought to transparency, definitive abolition of customs duties on certain pharmaceutical and medical products, and definition of new disciplines for crisis periods and new rules governing public procurement and import licenses.

IV. ESSENTIAL REINFORCEMENT OF HEALTHCARE SYSTEMS AND THE GLOBAL HEALTH SECURITY SYSTEM

25. Well before Covid-19, the international community stood together in acknowledging the urgency of improving the global health security system and health systems in general. The scale of the pandemic highlighted these systems' structural weaknesses, including in developed countries.

26. As the cornerstone of the global health security system (see §.9) the International Health Regulations provide that States agree to step up their capacities with regard to detection, assessment and notification of public health events. In this respect and in view of the questions raised in management of the crisis (data transparency, trigger point for public health emergencies of international concern (PHEICs) etc.), we need to assess implementation of the IHR and identify the best ways of improving their effectiveness. It should be borne in mind that, although the WHO's Constitution provides that each Member State submits an annual report to the Organisation on measures taken and progress made for improvement of its population's health, this obligation seems to have fallen by the wayside. Thought also needs to be given on how to improve mechanisms for triggering PHEICs, with the possibility of an intermediate trigger point.

27. The CNCDH recommends that the public authorities:

[Rec. 8] Step up technical cooperation for implementation and reinforcement of the IHR, in particular on behalf of developing countries, in compliance with France's global health strategy and the priority afforded to health systems.

28. Universal health coverage is a crucial factor in improvement of healthcare systems and an essential component of sustainable development and the fight against poverty. It is of key importance in an effort to reduce social inequalities. Universal health coverage echoes the 1948 *Constitution of the WHO,* which states that health is one of the fundamental rights of every human being, and the notion of health for all as defined in the 1978 *Alma-Ata Declaration on Primary Healthcare*. The WHO has identified the factors required to achieve these goals: 1/ a robust, effective, well managed health system that meets priority health needs through integrated patient-centred care (including services specialising in HIV, tuberculosis, malaria, non-communicable diseases and mother-and-child health); by informing people and encouraging them to keep their health up and prevent diseases; by early detection of health problems; by having the resources to treat diseases; and by helping patients in need of rehabilitation. 2/ affordable treatment – a system for funding health services which ensures that their use does not create financial problems for patients. 3/ access to the medicines and

technologies essential to diagnosis and treatment of medical problems. 4/ adequate numbers of well trained, highly motivated healthcare staff to deliver services and meet patients' needs by basing their actions on the best factual data available. It should be borne in mind that investments in quality primary healthcare are essential to achievement of universal health coverage.

29. Although progress has been in achieving universal health coverage (UHC) since Alma-Ata, major challenges remain. Degrees of health coverage are still inadequate in many countries, especially among disadvantaged and marginalised sectors of the public. According to the United Nations, almost half the world's population do not enjoy full coverage of essential health services. There is also considerable room for progress in developed countries. Although United Nations Member States have decided "to attempt to achieve" universal health coverage by 2030 in the context of the SDGs, it is clear that it cannot be achieved without strong long-term political commitment. UHC must more than ever become a major component of national policies and development aid programmes and must not fall victim to structural adjustment policies.

30. Achievement of these goals and the growing challenges of global health require sufficient numbers of health professionals to meet the population's needs. Studies carried out in 2016 by the High-Level Commission on Health Employment and Economic Growth, co-chaired by France and South Africa, estimated that there would be 18 million too few health professionals by 2030, mainly in medium- and high-income countries (see the 2017-2021 five-year action plan adopted by the WHO, OECD and ILO and the actions proposed[10]). Covid-19 has shown us the serious consequences of the shortage, which is only increasing, including in countries with the most developed healthcare systems. Moreover, observing even before Covid-19 that "*it will take more than ten years to implement the most recent normative practices and orientations in all global health professionals*", the WHO underscored the major need for training medical staff, public health policymakers and caregivers alike (see the WHO Academy project). Account must be taken of the special problems that developing countries have as regards training and thought be given to measures that would discourage health professionals from leaving to work in other countries.

31. The CNCDH recommends that the public authorities:

[Rec. 9] Regularly increase public aid to development in order to reach the goal of 0.7% of gross national income (GNI) as soon as possible, providing for a larger proportion of donations and bilateral action, in particular via humanitarian and civil society organisations.

[Rec. 10] Give high priority to actions seeking to improve health and universal

10. Working for Health: A Five-Year Action Plan for Health Employment and Inclusive Economic Growth (2017-2021), ILO-OECD-WHO https://www.who.int/hrh/com-heeg/comm-heeg_actionplan-fr.pdf?ua=1

health coverage systems, ensuring that the sectors of the population concerned are included in them.

[Rec 11] Support creation of decent, lasting jobs in the health and social sectors, paying special attention to low- and intermediate-income countries.

[Rec. 12] Step up training of medical staff at national, European and international level, as well as training of public health officials and caregivers.

32. Whatever the country, mobilisation of human and financial resources to combat Covid-19 must not be carried out at the expense of essential health services. It must not lead to neglect of prevention, diagnosis and treatment of other diseases, non-communicable disease included. According to a study commissioned by UNAIDS, a six-month interruption in antiretroviral treatments resulting from disruption of health services and provision of medical supplies could lead to over 500,000 extra deaths due to AIDS-related diseases, including tuberculosis, in sub-Saharan Africa in 2020-2021.

33. The CNCDH recommends that the public authorities:

[Rec. 13] Reinforce policies implemented at international level to ensure continuity of prevention, diagnosis and treatment of diseases other than Covid-19, in particular as regards non-communicable diseases and other communicable diseases.

[Rec. 14] Ensure full compliance with commitments made with regard to funding the fight against HIV infection, tuberculosis and malaria at the Global Fund's Sixth Replenishment Conference (Lyon, 9-10 October 2019).

34. Full account must also be taken of environmental factors as health determinants. Some of them may have an impact on development of chronic diseases contributing to the severity of Covid-19 among certain patients. In its call for action, the WHO stressed the importance of acting on behalf of the climate in order to reduce the number of deaths caused by air pollution, which it estimates to be over 7 million a year. In addition, the current pandemic, like Ebola, SARS and bird flu, highlights the need for an integrated approach to human and animal health within their respective environments (the WHO's "One World, One Health" approach[11]). France's proposal of a "One Health" High Council tasked with producing and disseminating independent, reliable scientific information on the links between human, animal and ecosystem health is very much in this spirit.

35. The CNCDH recommends that the public authorities:

11. https://www.who.int/features/qa/one-health/en/

[Rec. 15] Take account of environmental health determinants in the international actions they implement; integrate issues relating to Covid-19 in the 4th National Health/Environment Plan, “Mon environnement, ma santé” (My environment, my health).

36. Covid-19 has highlighted the key role played by women in the response to the disease and their essential contribution to healthcare, in the context of their professions (they account for over 70% of medical staff and social workers worldwide), the family, and the community alike. Women and girls have been heavily impacted by the pandemic and have seen the problems they encounter every day in accessing healthcare worsen, especially in developing countries: more limited access to healthcare, in particular for women working in the informal sector; increase in the maternal and infant mortality rate; more difficult access to sexual and reproductive health services, which are often regarded as non-essential; escalating rates of malnutrition; and increases in sexual and domestic violence. In the absence of appropriate action, much of the progress made risks being wiped out. UN Women estimates that the pandemic has widened the gender gap and will have pushed 47 million more women and girls into extreme poverty by 2021. In many respects the *Beijing Declaration and Platform for Action* adopted in 1995 are still very much relevant today, as is the Committee on Economic, Social and Cultural Rights’ General Comment no.22 on the right to sexual and reproductive health (Art.12)[12].

37. The CNCDH recommends that the public authorities:

[Rec. 16] Ensure that women are fully represented and involved in the decisions and measures adopted to combat Covid-19 and take full account of all aspects of women’s contribution to the health response.

[Rec. 17] Consolidate multisectoral programmes and strategies taking account of gender issues in the face of Covid-19, in particular to ensure gender equality; support reinforced international action on behalf of women’s and girls’ economic empowerment.

[Rec. 18] Support national and international actions combating violence against women (implementation of the Grenelle on violence against women); take account of the Minimum Initial Service Package (MISP) for Reproductive Health in Crisis Situations developed by the WHO and interagency working group on these issues.

[Rec. 19] Ratify the ILO’s Convention no.190 on Eliminating Violence and Harassment in the World of Work, as requested by the CNCDH Declaration adopted on 28 April 2020.

[Rec. 20]: Take a strong initiative in the context of the multi-actor coalition to be

12. E/C.12/GC/22.

jointly headed by France at the Generation Equality Forum (2021) with regard to sexual and reproductive rights and health.

V. WHO: LESSONS TO BE LEARNT FROM MANAGEMENT OF THE HEALTH CRISIS

38. The WHO saw its central role in the international response to the pandemic reasserted at the highest levels during the 73rd World Health Assembly (WHA) held on 18 and 19 May 2020. It must nonetheless take heed of the initial lessons to be learned from the way it has managed the crisis, which has raised a number of questions. To this end, the WHA called for the launch of "*an impartial, independent and comprehensive evaluation into the international response to the pandemic, coordinated by the WHO (…) to review experience gained and lessons learned from the WHO-coordinated international health response to COVID-19, in particular with regard to the WHO's action, the effectiveness of its mechanisms and functioning of the International Health Regulations*". An Independent Panel for Pandemic Preparedness and Response (IPPR) has been tasked with evaluating action taken at global level in the face of the Covid-19 pandemic. It has to present an interim report to the WHA in November 2020, followed by a substantive report at the WHA to be held in May 2021. These reports should include "*recommendations to improve capacity for global pandemic prevention, preparedness, and response, including through strengthening, as appropriate, the WHO Health Emergencies Programme*". Work is being carried out in parallel by the IHR Review Committee and the Independent Oversight and Advisory Committee for the WHO Health Emergencies Programme.

39. The evaluation is taking place at a time when the WHO is facing major problems (announcement of the United States' withdrawal, polemics on declaration of the international public health emergency, doubts about transparency of information, insufficient funding on the part of Member States, etc.). The WHO's responsiveness and efficacy, the way in which emergency health situations are managed (their definition, trigger point and funding), and data harmonisation and transparency are essential issues for the Organisation's credibility and its role as leader in a global health architecture which is highly fragmented but which, given the global stakes at play, must act in cohesive, coordinated fashion.

40. The CNCDH recommends that the public authorities:

[Rec. 21] Continue to act within the various multilateral fora concerned in order to consolidate the global health architecture and ensure maintenance of a strong WHO as the pivot of the international health system, with improved governance

and efficacy and provided with greater financial resources (in particular through an increase in mandatory contributions).

[Rec. 22] Respond to the Independent Panel for Pandemic Preparedness and Response's call by making a contribution on the crisis' health, economic and social impact and the responses brought to it; make a national contribution to the IHR Review Committee.

[Rec. 23] Contribute to reinforcement of the transparency and assessment of national health policies; study the possibility of a peer review in the context of the WHO.

[Rec. 24] Gradually increase France's voluntary contributions to international organisations dealing with health issues, the WHO in particular.

[Rec. 25] Promote French presence and expertise within international organisations dealing with health issues.

VI. BUILDING THE EUROPE OF HEALTH AND A NEW STRATEGIC SOVEREIGNTY

41. At European level, health is mainly in the hands of Member States, which are primarily responsible for the organisation and provision of health services and medical care. The EU's policies and actions in the field of public health seek above all to protect and improve the health of EU citizens, support modernisation of health infrastructures and improve the efficacy of European health systems.

42. In the face of Covid-19, the extraordinary European Council meeting in July 2020 adopted a range of measures[13] designed to mitigate the epidemic's socioeconomic effects. Measures include creation of the first common reserve of medical equipment and joint procurement contracts for purchase of personal protection equipment; coordinated action to increase production capacities and imposition of export authorisations for exports outside Europe; and facilitation of movement within Europe for goods and commodities. On the basis of the solidarity principle, the European Commission will be able to complement efforts made at national level, providing direct support to Member States' health systems, in particular via the Emergency Support

13. Conclusions of the extraordinary meeting of the European Council (17-21 July 2020) adopted by the European Council https://www.consilium.europa.eu/en/press/press-releases/2020/07/21/european-council-conclusions-17-21-july-2020/

Instrument (ESI) and RescEU's common stockpile of equipment, the medical equipment reserve under the Next Generation EU financial instrument. It is to be regretted, however, that the European Commission's financial proposals for reinforcing health systems through the "EU for Health" programme (2021-2027) were not retained in the context of the budget package adopted at the July 2020 European Summit.

43. But given the scale of the crisis and in the face of often uncoordinated, isolated measures with major consequences on the Union's operation (internal market, free movement, etc.), it has become necessary to reinforce EU action over time and give thought to competences with regard to health. In her speech on the State of the Union delivered on 16 September 2020, the President of the European Commission highlighted the goals that have to be achieved: improvement of the state of preparation for and management of crises connected with crossborder health threats, with reinforcement of the roles and powers assigned to the European Medicines Agency (EMA) and the European Centre for Disease Prevention and Control (ECDC); creation of an advanced biomedical research and development agency at European level; and constitution of strategic reserves in order to reduce dependence on the supply chain, in particular for pharmaceutical products. The Franco-German initiative for European recovery from the coronavirus crisis (18 May 2020) had already stressed the importance of a new approach "*based on strategic health sovereignty*", "*a strategically positioned European healthcare industry which will, in full respect of the Member States' responsibility for their social security and healthcare systems, upgrade the European dimension of healthcare and reduce EU dependency*". The same concerns are also to be found in the German Presidency of the EU Council, in particular with regard to ensuring provision of medical products and giving thought to such measures as tax incentives to maintain or relocate production of active substances for critical medical products in Europe.

44. The pandemic has highlighted the fragility of supply chains and the vulnerability of the people involved in them. It has become more than ever necessary to implement the United Nations' guiding principles on business and human rights, and the OECD's guiding principles for multinationals. Europe has an important role to play in advancing thought on such issues. The German Presidency is committed to an EU action plan aiming to increase companies' responsibilities in global supply chains and standards with regard to human rights, social and environmental standards, and transparency. On 29 April 2020, the European Commissioner for Justice announced that 2021 would see presentation of a legislative initiative on outsourcing companies' duty of vigilance vis-à-vis their subcontractors with regard to human rights and the environment. The regulation would aim to oblige companies to identify, prevent and reduce human rights violations and environmental damage, under penalty of law.

45. At national level, in its Opinion of 22 May 2018 on "Acting against abuse in the health system", the CNCDH deplored the increasing shortfalls in supply of medicines of major therapeutic interest. In the same year, the Senate's information report "Shortages of medicines and vaccines – focusing more closely on public health issues

in the medicine supply chain[14]" came to similar conclusions and included proposals to mitigate the problems encountered. In early 2020, the report by the Strategic Mission aiming to reduce shortages of essential medicines[15], carried out at the Government's request, found that "*problems with the supply of certain medicines occur with increasing frequency in private practices and hospitals*". Causes identified include lack of visibility of actors on potentially fragile links in the supply chain for a given generic speciality, absence of economic levers fostering maintenance of threatened productions and *a fortiori* encouraging relocation of crucial steps in manufacture to Europe, under satisfactory environmental, health and financial conditions. This finding makes it necessary to assess the impact of international fragmentation of production, give thought to development of national and European production sectors and relocation of production of essential goods. On 16 June 2020, the President of the Republic announced the development of a "*mechanism for planning, financing and organising France's industrial resilience with regard to health*". An action plan for relocation of research projects and health product production sites in France was presented on 18 June 2020, with three main goals: reinforcing national capacities for seeking therapeutic solutions; increasing French production capacities and safeguarding access to health products; and developing resilience to health crises at European level.

46. The CNCDH recommends that the public authorities:

[Rec. 26] Draw up a definition and list of essential medicines and strategic pharmaceutical substances at European level and secure their supply.

[Rec. 27] At national and European level, define incentive measures for relocation of production sites for medicines and active pharmaceutical substances identified as of strategic importance to European health security. Prioritise companies' long-term investment, employment and production commitments over the benefits of national and European support measures. Specify the consequences of noncompliance with such commitments. Ensure transparency of public aid.

[Rec. 28] Identify strategic health products with no therapeutic alternatives, and means of securing their production; in collaboration with the European Commission and Member States, review the possibility of creating a non-profit European pharmaceutical entity of general interest tasked with producing medicines in this category which are not already produced industrially.

[Rec. 29] Carry out studies at national and EU level on the vulnerability of value

14. Information Report by Jean-Pierre Decool, on the shortage of medicines and vaccines (27 September 2018) http://www.senat.fr/notice-rapport/2017/r17-737-notice.html

15. The report on the mission entrusted to Jacques Biot was finalised in February 2020. https://www.vie-publique.fr/sites/default/files/rapport/pdf/274702.pdf

chains and their impact on European supply, and consider relocating production of active substances for critical medical products in Europe; map and regularly update trading partners' ethical, social and environmental risks so as to be ready for any eventual discontinuities or tensions in supply chains.

[Rec. 30] Assess implications with regard to corporate social responsibility and identify ways of consolidating the duty of vigilance, in particular at EU level.

VII. SPECIAL ACTION ON BEHALF OF THE MOST VULNERABLE COUNTRIES[16]

47. The health crisis brought about by Covid-19 and its human, economic and social consequences have increased inequalities within and between countries. African countries' economies have been seriously impacted by the sudden fall in their exports, commodity prices and income from tourism, and by their efforts to combat Covid-19. This being so, greater solidarity and international cooperation on behalf of developing countries are necessary. The WHO and other multilateral organisations have stressed the urgency of meeting the needs of low- and intermediate-income countries, in particular by providing rapid, appropriate aid to development and humanitarian aid. According to the 2020 Edition of the UN Report on "The State of Food Security and Nutrition in the World", over 130 million more people risk suffering from chronic hunger by the end of the year due to Covid-19.

48. In this context, the question of debt treatments and cancellations is crucial, especially for African countries. A first step has been taken by the G20 and Paris Club creditors, which support temporary suspension of debt servicing payments for countries who request it. The moratorium introduced will last until the end of 2020 and should be reviewed. Beneficiary countries (77 in all, including some forty in sub-Saharan Africa) will have to commit to using the budgetary space so created in order to increase social, health and economic expenditures in response to the crisis.

49. As regards aid, the EU is committed to an overall sum of around 36 billion euros via the "Team Europe" programme, to support partner countries in their efforts to respond to the immediate health crisis and meet resulting humanitarian needs, improve health, water and sanitation systems, reinforce partner countries' capacities and preparation for coping with the pandemic, and mitigate social and economic consequences, including support for the private sector, with a focus on SMEs and

16. V. CNCDH 1 October 2020, *statement on the programming bill on inclusive development and the fight against global inequalities.*

government reforms to reduce poverty. The French Agency for Development's (AFD) "Covid-19 – Health in Common" initiative has been launched in the context of "Team Europe" and aims to bring an initial response to the health crisis and its economic and social consequences, mainly in priority countries for official development assistance (ODA).

50. In the special case of countries in conflict, Covid-19 increases the pressure on already much weakened healthcare systems. Compliance with international law, including international humanitarian law, is more than ever necessary in order to mitigate the pandemic's consequences. It is essential to ensure safe, unhindered access for humanitarian actors, medical staff in particular, as well as to enable delivery of the necessary healthcare equipment and supplies. It is also of crucial importance to respect and protect hospitals and other health facilities. Appeals in this respect finally resulted in the Security Council's Resolution 2532 (2020) adopted on 1 July 2020[17], demanding a halt to hostilities in any situation referred to it, and requesting all parties in armed conflicts to agree to a humanitarian ceasefire lasting at least 90 consecutive days, so as to enable safe, unimpeded and sustainable conveyance of humanitarian aid. The Political Declaration of 31 October 2017 on protection of humanitarian and medical personnel and the Call for Humanitarian Action, launched by France and Germany as part of the Alliance for Multilateralism, remain as relevant as ever.

51. The United Nations, which adopted Resolution 1325 on "Women, Peace and Security" twenty years ago, have called for increased inclusion of women in efforts to bring about an immediate global ceasefire in order to better combat Covid-19 and open up prospects of lasting peace.

52. The CNCDH recommends that the public authorities:

[Rec. 31] Further develop dialogue with humanitarian actors, in preparation for the next National Humanitarian Conference, focusing in particular on protection of humanitarian and medical personnel. Continue with initiatives on these issues in the relevant international fora.

[Rec. 32] Draw up France's 3rd National Action Plan relating to the United Nations Security Council's "Women, Peace and Security" resolution and take it into account during discussions on a "Compact for Women, Peace and Security and Humanitarian Action" to be conducted at the next Generation Equality Forum (2021).

17. https://www.un.org/press/en/2020/sc14238.doc.htm

VIII. THE EFFECTIVENESS OF HUMAN RIGHTS, SOCIAL RIGHTS IN PARTICULAR

53. Taking full account of human rights in public health policies is essential to ensuring their efficacy. This implies that all States fulfil their obligations with regard to human rights, the right to life and the right to health in particular, and report to international and regional bodies on their implementation of these standards in the context of the pandemic. In this respect, the "Covid-19 Guidance Notes" published by the Office of the United Nations High Commissioner for Human Rights" covers all fields, civil and political rights, and economic, social and cultural rights alike[18]. The High Commissioner has also contacted National Human Rights Institutions (NHRIs) to encourage their involvement. For their part, the various Special Rapporteurs have demonstrated their vigilance and responsiveness both individually and collectively[19]. In this context, the Special Rapporteur on the right to health's new mandate merits particular attention.

54. In promoting international labour standards, the ILO has always focused on "social protection floors", as is emphasised by Recommendation no.202 delivered in 2012, which aimed to strengthen national social security systems and universalise such protection. Its Centenary Declaration, adopted in 2019, calls for "*universal access to comprehensive and sustainable social protection*" that is both "*adequate and adapted*", in compliance with SDGs 1.3 and 3.8. The ILO is also committed to development of occupational health and safety (OHS), with the *Centenary Declaration* containing a call to take account of the sector, which is included in its action focuses as one of the "fundamental principles and rights at work". The Covid-19 crisis has made universal implementation of these priorities all the more urgent, in conjunction with achievement of the SDGs. Moreover, *Recommendation no.205 on Employment and Decent Work for Peace and Resilience*, issued in 2017, emphasises the need to ensure that responses to crises respect all human rights and the primacy of law, including respect of fundamental principles and rights at work. The 20th World Congress on Safety and Health at Work, which is set to take place from 19 to 22 September 2021, will provide an ideal opportunity to assimilate what the crisis has taught us and propose avenues for action.

55. Each Member State also needs to ensure that existing international labour conventions are reinforced and effective, as France has a duty of exemplarity in this respect. Our country has not yet ratified *Convention no.161 on health services at work* (1985) – which is complemented by Recommendation no.171 – or the Promotional Framework for Occupational Safety and Health no.187 of 2006 – complemented by Recommendation no.197.

18. https://www.ohchr.org/Documents/Press/COVIDPublicMessaginFR.pdf . See also Ms Bachelet's letter of 21 April 2020 Letter to All Heads of National Human Rights Institutions.
19. www.ohchr.prg/EN/NewsEvents.pages/COVID-19.aspx.

56. The CNCDH recommends that the public authorities:

[Rec. 33] In consultation with all tripartite constituents, contribute actively to preparation of the 20th World Congress with a view to giving greater consideration to occupational health and safety (OHS), and the roles of the labour inspectorate and occupational medicine, by including them among the fundamental principles and rights at work.

[Rec. 34] Ratify the international labour conventions covering these various areas, in particular *Convention no.143 on migrant workers* (complementary provisions); Convention no.161 and P*romotional Framework no.187 for occupational health and safety,* and application of the recommendations accompanying them; and *Convention no.189 on domestic workers.*

[Rec. 35] Recognise Covid-19 as an occupational disease and have it recognised as such.

57. The United Nations Committee on Economic, Social and Cultural Rights – which oversees States Parties' application of the International Covenant on Economic, Social and Cultural Rights – has developed an interpretive framework for implementation of Article 12 of the Covenant, in the light of its experience. General Observation no.14 on "*the right to the highest attainable standard of health*", adopted on 11 August 2000, should constitute the starting point for all thought on the legal nature and practical scope of the right to health, by highlighting the obligations incumbent on States and all other stakeholders. General Observation no.14 was recently complemented by the "*Statement on the coronavirus disease (Covid-19) pandemic and economic, social and cultural rights*" adopted by the Committee on 17 April 2020. The CNCDH notes that France must present its 5th Periodic Report to the Committee on Economic, Social and Cultural Rights before 20 June 2021, based on the list of questions published by the Committee[20].

58. In parallel, at regional level[21], the European Social Charter revised in 1996 fully enshrines the "right to protection of health" (Art.11) along with the "right to social security" (Art.12) and the "right to social and medical assistance" (Art.13). According to Article 11, "*With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia: 1. to remove as far as possible the causes of ill-health; 2. to provide advisory and educational facilities for the*

20. E/C.12/FRA/QRP/5 (6 April 2020). See the CNCDH's written contribution to the Pre-Sessional Working Group in March 2020, whose concerns regarding the right to health are reflected in the questions selected by the Committee.

21. For an assessment of the European Court of Human Rights' jurisprudence, see. Thematic Report: Health-related issues in the case-law of the European Court of Human Rights (2015).

promotion of health and the encouragement of individual responsibility in matters of health; 3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents". In this respect, the European Committee of Social Rights has decided to devote its next cycle to Thematic Group 2 "*health, social security and social protection*", also covering Article 3 of the Social Charter, on the right to safe and healthy working conditions, protection of the elderly, and the situation of individuals in extreme poverty (Art.30). National reports have to be submitted before 31 December 2020, while social partners' contributions can be communicated up until 30 June 2021.

59. The CNCDH recommends that the public authorities:

[Rec. 36] Contribute to dissemination of the Committee on Economic, Social and Cultural Rights' General Observation no.14 on "the right to the highest attainable standard of health" as part of administrative officials' and health professionals' basic training, and in the context of awareness-raising among the general public, including in human rights education.

[Rec. 37] Make the utmost of the deadline set for submission of France's 5th Periodic Report on the International Covenant on Economic, Social and Cultural Rights (20 June 2021), paying special attention to the responses to give to the questions on the right to health, in order to enable critical assessment of the present health crisis' impact on effective implementation of Article 12 of the Covenant.

[Rec. 38] Present France's National Report to the European Committee of Social Rights within the required deadline, consulting the CNCDH and encouraging all stakeholders, unions and NGOs in particular, to take an active part in the assessment enabling comparison of the operation of national systems during the crisis and sharing of European best practices.

IX. REFUGEES, DISPLACED PERSONS AND MIGRANTS

60. Refugees and displaced persons are among the most marginalised and vulnerable people on the planet. Over 80% of refugees and almost all internally displaced persons (IDPs) are to be found in low- and medium-income countries. The present health crisis has increased their vulnerability to disease, in particular in refugee camps and waiting areas, and added to detection, diagnosis and treatment difficulties. The United Nations Network on Migration requests that all of them, including migrants whatever their migratory situation, be included in efforts to combat Covid-19 and its impact. With this concern in mind, the WHO, the International Red Cross, the International

Organisation for Migration and the United Nations High Commission for Refugees have joined forces to draft "provisional guidelines on reinforcement of preparation and response capacities for persons in humanitarian situations, including internally displaced persons (IDPs), host communities, asylum seekers, refugees, returnees and migrants".

61. The CNCDH recommends that the public authorities:

[Rec. 39] Ensure that refugees, displaced persons and migrants have access to health services and are fully included in responses to Covid-19 as regards prevention, detection and treatment.

[Rec. 40] Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. At all events, it is essential that the authorities take full account of the fundamental right to health of migrant workers present on French soil, whatever their status, and in particular those in situations of major vulnerability.

X. HUMAN TRAFFICKING AND CONTEMPORARY FORMS OF SLAVERY

62. The situation of human trafficking victims, who are often more difficult to identify due to lockdown measures, has worsened for a variety of reasons, including reduced access to healthcare, greater risks of abuse and violence, increased psychological distress, reduction of the support and protection such individuals might be afforded, delays in legal proceedings, and the impossibility of returning to their own countries. On 19 November 2019, as independent national rapporteur on the fight against the trafficking and exploitation of human beings, the CNCDH issued an Opinion on "the second national action plan against trafficking in human beings (2019-2021)", with Recommendations including creation of a national identification mechanism to enable identification and protection of victims, in compliance with France's international commitments, in particular the Council of Europe Convention on Action against Trafficking in Human Beings (Warsaw, 2005) and the European Parliament and Council Directive 2011/3 6/ EU of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims.

63. The new Special Rapporteur on contemporary forms of slavery presented a report on "*Impact of the coronavirus disease pandemic on contemporary forms of slavery and slavery-like practices*"[22] to the Human Rights Council during its September 2020 session, emphasising the pandemic's many social and economic effects: "*These*

22. A/HRC/45/8.

are well-known factors which increase peoples' vulnerability to slavery, including trafficking in persons, debt bondage, forced labour, worst forms of child labour, forced marriage and other contemporary forms of slavery". The new Special Rapporteur took a series of special groups into consideration, including workers in the informal sector, national minorities, indigenous peoples and migrant workers, emphasising that their vulnerability has increased in the face of criminal organisations and the erosion of surveillance mechanisms and access to justice.

64. The CNCDH recommends that the public authorities:

[Rec. 41] Integrate the consequences of Covid-19 into the second national action plan against trafficking in human beings.

[Rec. 42] Institute a national identification mechanism enabling identification and protection of human trafficking victims.

65. Finally, the CNCDH cannot but emphasise that it is essential "to leave no one behind", as the Secretary-General of the United Nations reasserted. This concerns the humanitarian response at global level, with the emphasis on international solidarity, as well as the individual actions implemented by each State to take account of the most vulnerable individuals, the "invisible" that are the crisis' first victims.

66. The CNCDH recommends that the public authorities:

[Rec. 43] Involve civil society fully in drafting France's next global health strategy, taking account of the Recommendations made in this Opinion.

LIST OF RECOMMENDATIONS

The CNCDH recommends that the public authorities:

[Rec. 1] Implement policies involving the various stakeholders in each step of the response (prevention, treatment and care, vaccination, etc.), the public at large in particular, so as to ensure the appropriateness and effectiveness of measures taken.

[Rec. 2] Foster the emergence of strong political commitment within the various international fora concerned (G7, G20, United Nations, international financial institutions, etc.) in order to mobilise funding equal to the issues at stake and promote rapid concrete solutions for safe, equitable, universal access to diagnoses, treatments and vaccines.

[Rec. 3] Aim for international availability of Covid-19 treatments and vaccines, in particular via the mechanisms already in place and by facilitating possibilities for local production of such vaccines and medicines, and generic and biosimilar versions.

[Rec. 4] Reassert the right to make full use of the TRIPS Agreement and Doha Declaration, in particular the flexibilities they provide for, including compulsory licenses, in order to protect public health and promote access to medicines for all.

[Rec. 5] Ensure the transparency of investments in research and development for Covid-19 vaccines and treatments, in particular with regard to totals and proportions of public financing, European financing and financing by international agencies in such investments.

[Rec. 6] Accompany public funding of research and development on health products with guarantees on access, price, transparency and intellectual property rights.

[Rec. 7] Continue with the initiatives alongside the European Commission and Member States with a view to advancing thought on what measures might be taken in the context of the WTO to address current failings with regard to trade in health goods and ensure diversified, flexible and resilient supply chains. Continue giving thought to transparency, definitive abolition of customs duties on certain pharmaceutical and medical products, and definition of new disciplines for crisis periods and new rules governing public procurement and import licenses.

[Rec. 8] Step up technical cooperation for implementation and reinforcement of the IHR, in particular on behalf of developing countries, in compliance with France's global health strategy and the priority afforded to health systems.

[Rec. 9] Regularly increase public aid to development in order to reach the goal of 0.7% of gross national income (GNI) as soon as possible, providing for a larger proportion of de donations and bilateral action, in particular via humanitarian and civil society organisations.

[Rec. 10] Give high priority to actions seeking to improve health and universal health coverage systems, ensuring that the sectors of the population concerned are included in them.

[Rec. 11] Support creation of decent, lasting jobs in the health and social sectors, paying special attention to low- and intermediate-income countries.

[Rec. 12] Step up training of medical staff at national, European and international level, as well as training of public health officials and caregivers.

[Rec. 13] Reinforce policies implemented at international level to ensure continuity of prevention, diagnosis and treatment of diseases other than Covid-19, in particular as regards non-communicable diseases and other communicable diseases.

[Rec. 14] Ensure full compliance with commitments made with regard to funding the fight against HIV infection, tuberculosis and malaria at the Global Fund's Sixth Replenishment Conference (Lyon, 9-10 October 2019)..

[Rec. 15] Take account of environmental health determinants in the international actions they implement; integrate issues relating to Covid-19 in the 4th National Health/ Environment Plan, "Mon environnement, ma santé"(My environment, my health).

[Rec. 16] Ensure that women are fully represented and involved in the decisions and measures adopted to combat Covid-19 and take full account of all aspects of women's contribution to the health response.

[Rec. 17] Consolidate multisectoral programmes and strategies taking account of gender issues in the face of Covid-19, in particular to ensure gender equality; support reinforced international action on behalf of women's and girls' economic empowerment.

[Rec. 18] Support national and international actions combating violence against women (implementation of the Grenelle on violence against women); take account of the Minimum Initial Service Package (MISP) for Reproductive Health in Crisis Situations developed by the WHO and interagency workgroup on these issues.

[Rec. 19] Ratify the ILO's Convention no.190 on Eliminating Violence and Harassment in the World of Work, as requested by the CNCDH Declaration adopted on 28 April 2020.

[Rec. 20]Take a strong initiative in the context of the multi-actor coalition to be jointly headed by France at the Generation Equality Forum (2021) with regard to sexual and reproductive rights and health.

[Rec. 21] Continue to act within the various multilateral fora concerned in order to consolidate the global health architecture and ensure maintenance of a strong WHO as the pivot of the international health system, with improved governance and efficacy and provided with greater financial resources (in particular through an increase in mandatory contributions).

[Rec. 22] Respond to the Independent Panel for Pandemic Preparedness and Response's call by making a contribution on the crisis' health, economic and social impact and the responses brought to it; make a national contribution to the IHR Review Committee.

[Rec. 23] Contribute to reinforcement of the transparency and assessment of national health policies; study the possibility of a peer review in the context of the WHO.

[Rec. 24] Gradually increase France's voluntary contributions to international organisations dealing with health issues, the WHO in particular.

[Rec. 25] Promote French presence and expertise within international organisations dealing with health issues.

[Rec. 26] Draw up a definition and list of essential medicines and strategic pharmaceutical substances at European level and secure their supply.

[Rec. 27] At national and European level, define incentive measures for relocation of production sites for medicines and active pharmaceutical substances identified as of strategic importance to European health security. Prioritise companies' long-term investment, employment and production commitments over the benefits of national and European support measures. Specify the consequences of noncompliance with such commitments. Ensure transparency of public aid.

[Rec. 28] Identify strategic health products with no therapeutic alternatives and means of securing their production; in collaboration with the European Commission and Member States, review the possibility of creating a non-profit European pharmaceutical entity of general interest tasked with producing medicines in this category and which are not already produced industrially.

[Rec. 29] Carry out studies at national and EU level on the vulnerability of value chains and their impact on European supply, and consider relocating production of active substances for critical medical products in Europe; map and regularly update trading

partners' ethical, social and environmental risks so as to be ready for any eventual discontinuities or tensions in supply chains.

[Rec. 30] Assess implications with regard to corporate social responsibility and identify ways of consolidating the duty of vigilance, in particular at EU level.

[Rec. 31] Further develop dialogue with humanitarian actors, in preparation for the next National Humanitarian Conference and focusing in particular on protection of humanitarian and medical personnel. Continue with initiatives on these issues in the relevant international fora.

[Rec. 32] Draw up France's 3rd National Action Plan relating to the United Nations Security Council's "Women, Peace and Security" resolution and take it into account during discussions on a "Compact for Women, Peace and Security and Humanitarian Action" to be conducted at the next Generation Equality Forum (2021).

[Rec. 33] In consultation with all tripartite constituents, contribute actively to preparation of the 20th World Congress with a view to giving greater consideration to occupational health and safety (OHS), and the roles of the labour inspectorate and occupational medicine, by including them among the fundamental principles and rights at work.

[Rec. 34] Ratify the international labour conventions covering these various areas, in particular *Convention no.143 on migrant workers* (complementary provisions); *Convention no.161* and *Promotional Framework no.187 for occupational health and safety,* and application of the recommendations accompanying them; and *Convention no.189 on domestic workers*.

[Rec. 35] Recognise Covid-19 as an occupational disease and have it recognised as such.

[Rec. 36] Contribute to dissemination of the Committee on Economic, Social and Cultural Rights' General Observation no.14 on "the right to the highest attainable standard of health" as part of administrative officials' and health professionals' basic training, and in the context of awareness-raising among the general public, including in human rights education.

[Rec. 37] Make the utmost of the deadline set for submission of France's 5th Periodic Report on the *International Covenant on Economic, Social and Cultural Rights* (20 June 2021), paying special attention to the responses to give to the questions on the right to health, in order to enable critical assessment of the present health crisis' impact on effective implementation of Article 12 of the Covenant.

[Rec. 38] Present France's National Report to the European Committee of Social Rights within the required deadline, consulting the CNCDH and encouraging all stakeholders, unions and NGOs in particular, to take an active part in the assessment enabling comparison of the operation of national systems during the crisis and sharing of European best practices.

[Rec. 39] Ensure that refugees, displaced persons and migrants have access to health services and are fully included in responses to Covid-19 as regards prevention, detection and treatment.

[Rec. 40] Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. At all events, it is essential that the authorities take full account of the fundamental right to health of migrant workers present on French soil, whatever their status, and in particular those in situations of major vulnerability.

[Rec. 41] Integrate the consequences of Covid-19 in the second national action plan against trafficking in human beings.

[Rec. 42] Institute a national identification mechanism enabling identification and protection of human trafficking victims.

[Rec. 43] Involve civil society fully in drafting France's next global health strategy, taking account of the Recommendations made in this Opinion.

LIST OF HEARINGS BY THE "HEALTH" WORKING GROUP.

Michèle BOCCOZ, Assistant Director-General for External Relations, WHO.
Philippe de BOTTON, President of Médecins du Monde.
Francesca COLOMBO, Head of the Organisation for Economic Cooperation and Development's (OECD) Health Division.
Carole DROMER, Deputy Head of the International Committee of the Red Cross' Health Unit.
Luis JIMENA QUESADA, Professor at the University of Valence and former Chair of the European Committee of Social Rights.
Gaëlle KRIKORIAN, Manager of the Programme for Access to Medicines at Médecins sans Frontières and sociologist specialising in intellectual property.
Philippe LACOSTE, Director for Sustainable Development at the Ministry for Europe and Foreign Affairs' General Directorate for Globalisation.
Robert LAFORE, Professor of Public Law at IEP, Bordeaux.
Bruno PALIER, CNRS Director of Research at the Centre for European Studies and Comparative Politics, Sciences Po.
Jean-Marie PAUGAM, France's Permanent Delegate at the World Trade Organisation (WTO).
Joaquim PINTADO NUNES, Head of the International Labour Organisation's OSH (Occupational Safety and Health) Branch.
Didier REBUT, Professor of Criminal Law, University Paris II.
Valérie SCHMITT, Deputy Director of the International Labour Organisation's (ILO) Social Protection Department.
Stéphanie SEYDOUX, Ambassador for Global Health, Ministry for Europe and Foreign Affairs.
Didier TRUCHET, Emeritus Professor of Public Law, University Paris II.
Ellen VERDURE, Legal Advisor to France's Permanent Delegation at the World Trade Organisation (WTO).
Christiane WISKOW, Health Specialist at the International Labour Organisation's (ILO) Sectoral Policies Department.

CNCDH

COMMISSION NATIONALE CONSULTATIVE DES DROITS DE L'HOMME

RÉPUBLIQUE FRANÇAISE

Created in 1947 at the instigation of René Cassin, **the National Consultative Commission on Human Rights (CNCDH) is the French national institution responsible for promoting and protecting human rights with level 'A' accreditation from the United Nations.**

The CNCDH performs a three-pronged role that involves the following:
- enlightening the public decision-making process with regards to human rights;
- monitoring the effectiveness in France of rights protected by international human rights conventions;
- overseeing France's implementation of recommendations made by international committees.

The CNCDH is independent and operates based on the principle of the pluralism of ideas. This being the case, as the only institution that maintains continuous dialogue between civil society and French experts in the field of human rights, the Committee comprises 64 qualified individuals and reprsentatives of non-governmental organisations with their roots in civil society.

The CNCDH has been an independent National Rapporteur on the fight against all forms of racism since 1990, on the fight against the trafficking and exploitation of human beings since 2014, on the fight against homophobia since 2018.

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