

THE PROTECTION OF THE PHYSICAL INTEGRITY AND THE PRINCIPLE OF INVIOABILITY OF THE HUMAN BODY REGARDING COMPULSORY VACCINATIONS

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Introduction:

The Belgian law of 22 August 2002 on patients' rights introduced the requirement of prior informed consent to all medical procedures including vaccination. The right to physical integrity is an absolute right guaranteed by Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

The Charter of Fundamental Rights of the European Union also established in 2010 the right to the integrity of the person, in order that everyone has the right to respect for his or her physical and mental integrity. Article 3 of the Charter also established that in the fields of medicine and biology, this right must be respected, in particular where the free and informed consent of the person is concerned, according to the procedures laid down by law.

Under Article 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms is the right to respect for private and family life protected with no interference by a public authority, with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests for the protection of health.

In such circumstances which could be the limits to prior informed consent in the field of compulsory and/or pandemic vaccinations? How do we legally apply the proportionality examination considering the protection of the health in its individual and collective dimensions?

To which extent will individual medical contraindications and the therapeutic freedom of physicians be respected? In which circumstances could a medical treatment like vaccination be imposed? What about the responsibilities about the damages caused by the heavy metals which are components of some vaccines? Where the efficacy of a given vaccination is either partial or not guaranteed, could the medical act of vaccination be legally requalified as "medical experimentation"?

All these complex questions will be examined through Belgian and European jurisprudence and the application of the constitutional and international law provisions, against the backdrop of the fundamental principle "Primum non nocere".

1.- Each Vaccination is a medical procedure:

In Belgium, the practice of the healing arts¹ includes the establishment of diagnosis and the administration of treatment(s), or any act designed to or purporting to be, in respect of a human being, or a review of health status or screening for disease and disability, or the diagnosis, the establishment or implementation of treatment of a medical condition, physical or mental, real or perceived or vaccination².

In its opinion of 20 January 1996 on the administration of vaccines, the National Council of the Belgian Medical Board states that «*Vaccination remains a medical procedure (Art. 2 of the Royal Decree of 10 November 1967). Only the physician is able to prescribe it and to track as well as treat its side effects*».³

Any physician enrolled in the Medical Board, in the context of the lawful exercise of medicine in Belgium, must respect the law of 22 August 2002 on patient rights and specifically Art. 8. § 1 of the Law of 22 August 2002 on the rights of the patient which states that: "*The patient has the right to freely consent to any intervention by the professional practitioner provided the patient disposes of prior information. This consent is to be explicitly*

¹ Loi 10.08.2001 portant modification de l'A.R. n° 78 du 10.11.1967 (M.B. 14.11.1967)

² Arr. roy. n° 78 du 10 novembre 1967, art. 1er, 2, alinéa 1er, et 7, alinéa 1er et 2.) » (C. Cass. 20 juin 1990, <http://www.juridat.be/>)

³ www.ordomedic.be

expressed, except in cases where the professional practitioner, after having sufficiently informed the patient, can reasonably infer from the latter's behaviour his or her consent to the intervention," and Art. 8. § 2 of the same Act, which provides that "the information provided to the patient for his consent ... concerning the purpose, nature, the degree of urgency, duration, frequency, contraindications, side effects and risks involved in the intervention and relevant to the patient, follow-up care, possible alternatives and the financial impact thereof".

Pertinent information must be provided at a time when the patient still has sufficient time to reflect upon the options before the date of the projected treatment (medical procedure). This important aspect also concerns campaigns such as the current cervical cancer vaccination campaign aimed at young girls in Belgium and in other countries.

In principle, any vaccine must be preceded by an examination to verify that the product to be administered to the child or patient is not dangerous for him or her, with at least the following group of tests:

- Full Ionogram, urea assays,
- Lipoproteinogram,
- Endocrine balance
- Titration of all antibodies specific to any vaccinations already administered,
- Testing for HIV and the various forms of hepatitis,
- Electrophoresis of serum proteins and immunophoresis, so as to obtain a global overview of the capacity or incapacity of the patient's body to produce antibodies,
- and , depending on the age of the patient, a comprehensive review of radiology results.

The physician must in any event inform the patient before starting the planned treatment (or medical act). The provision of timely information must allow sufficient time and opportunity to the patient to make an informed decision.

In France, a similar law, the law on patient rights called the Kouchner Act of 4 March 2002, states in Article L 1111-4 of the Code of Public Health: *"No medical procedure, or treatment can be carried out without the person's free and informed consent and this consent may be withdrawn at any time."*

2. - Each vaccination is a medical procedure and can never be imposed.

If a doctor prescribes an immunization or vaccine without following the 2002 law on patient rights, he carries individual responsibility for unlawful activity, with the additional liability of constituting a break in the "chain of information" which is spelled out in such detail in the manufacturer's instructions.

The result is such that whenever a doctor immunizes a child and that the parents do not receive information on the composition, hazards, side effects and medical contraindications against vaccinations, the doctor does so in violation of the law. In such a case, the doctor is considered to be liable to criminal offenses in the event of side effects due to the vaccine that has been thus administered, and to have endangered the lives and health of others.⁴

A doctor working for a government and practicing "telemedicine" who would prescribe vaccinations without prior clinical examination of patients (while compulsory), and who does not take into account medical contraindications provided by a patient's attending physicians, would therefore be acting reprehensibly.

The criminal court of Tournai (Belgium) in its decision of 16 March 2011 upheld that the mandatory polio vaccination as established by the Royal Decree of 26 October 1966 did not conform to the requirements of the Law of 22 August 2002, and by the application of Article 159 of the Constitution, the application of Royal Decree must be rejected (cf. text of the judgment ⁵).

⁴ En France, par une décision N° 327915 du 24 avril 2012, le Conseil d'Etat a reconnu le vaccin Pentacoq responsable d'un handicap à 95% chez un bébé de 5 mois, et a condamné en conséquence l'Etat à plus de 3 millions d'euros d'indemnisations

⁵ <http://liberte-therapeutique-et-droit.skynetblogs.be/archive/2011/04/11/vaccination-polio-en-belgique-caractere-obligatoire-illicite.html>

On May 3, 2011, during the Parliamentary Committee on Social Affairs, 5-64COM (page 26), the Minister of Public Health of Belgium reacted: *"In any case, this judgment has only relative significance. It takes effect only in respect of the parties to the proceedings. The decision taken does not therefore prejudice the validity of legislative acts which clearly remain applicable. However, a judge faced with the same problem could follow the precedent and give the legislation the same interpretation as that followed in the particular case at hand."*

A ruling by the European Court of Human Rights issued in 2002 had stated that *"as an involuntary medical treatment, mandatory vaccination interferes with the right to privacy as guaranteed by Article 8 of the European Convention on Human Rights and Fundamental Freedoms"* ⁶

3.- The interdiction of any attack on physical integrity:

Could a medical procedure or act be administered against the wishes of a patient, for the sole purpose of trying to save him, by the accomplishment of an act essential to his survival and commensurate with his state? ⁷

A medical decision which could be imposed on a patient in view of his state of health, can in no way be compared to a legal framework for the enforcement of mandatory vaccinations.

With regard to vaccination, those vaccines which do not offer the guarantee of absolute efficiency and which contain components harmful to human health, the minimum proportionality is absent in comparison to an act of preventive medicine as such or that of a medical act which is carried out because essential to the survival of the patient.

Violations of physical integrity are condemned by the European Convention on Human Rights which prohibits torture (Article 3) and the International Covenant on Economic Social and Cultural Rights (Article 12). The notion of harm to physical integrity must be understood in a broad sense. It covers any mutilation, any injury or illness caused with or without violence, but its definition extends to a person's mental integrity.

The Charter of Fundamental Rights of the European Union ⁸ provides in Article 3 that:

"Article 3

Right to the integrity of the person

1. Everyone has the right to respect for his or her physical and mental integrity.

2. In the fields of medicine and biology, the following must be respected in particular:

(a) the free and informed consent of the person concerned, according to the procedures laid down by law;

(b) the prohibition of eugenic practices, in particular those aiming at the selection of persons;

(c) the prohibition on making the human body and its parts as such a source of financial gain;

(d) the prohibition of the reproductive cloning of human beings."

To date Belgium has not yet ratified the Oviedo Convention of 4 April 1997 ⁹ (ratified by a majority of countries of the European Union), on the pretext that the Convention had served as the inspiration for the drafting of the law of 22 August 2002 on patient rights.

Article 2 of the Oviedo Convention, states: *"Article 2 – Primacy of the human being*

The interests and welfare of the human being shall prevail over the sole interest of society or science."

The administration of obligatory vaccines constitutes a violation of physical integrity and the administration of toxic substances is furthermore a violation of the Hippocratic Oath, which requires compliance with the principle of "Primum non nocere".

The problem of the presence of heavy metals, like other toxic adjuvants in vaccines is one of the most serious issues of our time in medical law. The denial of this issue by and the manner in which some public health

⁶ Arrêt SALVETTI c/Italie – CEDH Décision du 9 juillet 2002 ; n° 42197/98

⁷ Arrêt N° 198546 du Conseil d'État du 26 octobre 2001, France

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:C:2010:083:0389:0403:en:PDF>

⁹ Convention for the Protection of Human Rights and Dignity of the Human Being with regard to the Application of Biology and Medicine: Convention on Human Rights and Biomedicine, <http://conventions.coe.int/Treaty/en/Treaties/Html/164.htm>

authorities continue to blindly vaccinate their populations, doing all that is possible to maintain a taboo around the issue of medical contraindications and risks of side effects caused by vaccines, is scientifically, medically and legally unacceptable and constitutes a grave violation of the principle of precaution.

Indeed, heavy metals are toxic at any dose-- there is no threshold of non-toxicity. Heavy metals' carcinogenic, mutagenic and teratogenic effects have never been tested for vaccines, unlike other drugs.

The precautionary principle and the principle "primum non nocere" impose the prohibition a priori of any substance recognized as hazardous to health and/or the environment, whether these are carcinogenic, mutagenic and Reprotoxic (CMR) immunotoxic, endocrine disruptors, neurotoxic or Persistent Bioaccumulative Toxic (PBT) or a combination of the above.

Due to conflicts of interest, some authorities, including allegedly "scientific" authorities and organisations, struggle to keep this problem quiet in the media, as was the case with asbestos, thalidomide, Mediator, and other public health threats which were kept hidden from the general public for long.

The ban on heavy metals in vaccines, is part of the simple observance of the principle of Hippocrates "primum non nocere" and illustrates an application of the precautionary principle with reference to the Nuremberg Code.

The French National Assembly has begun work to ban certain heavy metals from vaccines: the recent recommendations of the French Parliamentary group on immunization of the National Assembly¹⁰, presented on 13 March 2012, request a moratorium on all vaccines containing aluminium¹¹. The discussions in the National Assembly suggested it be banned outright, as summarize in recommendation Number 3 of the "Jarde Report".

The Pasteur Institute had already developed vaccines free of heavy metals: "The Pasteur Institute has replaced the aluminium adjuvant by the calcium phosphate (CaP) in the 1970s, on scientific criteria (efficacy and safety of use of phosphate calcium, toxicity of the aluminium adjuvant. Work conducted by Professor Relyveld in particular)"¹², as noted by the French "Association of Mutual Aid to those affected by myofasciitis macrophages"¹³.

The Nuremberg Code (1947) - which emerged from the Nuremberg trials, identifies informed consent as an absolute prerequisite to the conduct of research involving human subjects, and thus a fortiori when administering medical treatment¹⁴.

It must be left to doctrine to develop the concept of "crime against humanity" in peacetime, not just in times of war as in its original design. The past few years have seen the emergence of networks of European lawyers active on the issue of health protection and who advocate acting in accordance with the precautionary principle and the principle of "Primum non nocere" in various divisive matters relating to the protection of human health.

4.- Respect for therapeutic freedom:

The Belgian Royal Decree No. 78 of 10 November 1967 establishes the respect of therapeutic freedom in accordance with Article 11 of said Decree, which makes it illegal to hinder the freedom of choice of therapeutic means for all practitioners of the healing arts.

It is also forbidden to hinder freedom of choice and use of therapeutic means available over the counter (food supplements, nutrients, vitamins, etc.), this in order to allow individuals to maintain or improve their health.

A recent German study on infectious diseases, called KIGGS¹⁵, was conducted for three years, from May 2003 to May 2006, by the Robert Koch Institute, the renowned institute at the service of the German Federal Ministry

¹⁰ http://www.olivierjarde.info/actualite/fichiers/786/Syntheses_des_20recommandations.pdf

¹¹ [Vaccins - JT 19/20 de FR3 - **Recommandations du groupe d'étude ...**](http://vaccins-jt1920.fr3-recommandations-du-groupe-d-etude-...)

¹² <http://myofasciite.fr/Contenu/Divers/PhosphateCalciumAlternativeAluminium.pdf>

¹³ <http://www.myofasciite.fr>, Agrément National du Ministère de la Santé, Arrêté du 6 mars 2007 JO du 22 mars 2007

¹⁴ http://www.frsq.gouv.qc.ca/fr/ethique/pdfs_ethique/nuremberg_f.pdf

¹⁵ <http://ddata.over-blog.com/xxxxyy/3/27/09/71/dec-2011/Angelika-Kogel--KIGGS-study.pdf>

of Health. A summary of this long study was published in the Journal Bundesgesundheitsblatt (Vol. 49, No. 10, 2006). The Institute is currently pursuing the study during a second stage (2009-2012).

"The work of the Koch Institute brought infectious diseases to the fore. Pneumonia affected 11.07% of vaccinated children whereas only 7.75% of [non-vaccinated children] were affected; as for ear infections the incidence was 11% as compared to 2%.

The incidence of infectious disease for children aged 7-17 years, were studied during the 12 months preceding the survey. It was concluded that the immune system of unvaccinated operated normally, whereas after vaccination, it goes mad or crashes."

Serious studies showing that unvaccinated children are actually healthier than vaccinated children, and therefore that therapeutic freedom, for physicians and patients alike, should be duly respected and that therapeutic means other than vaccines can and should be taken into account by schools and kindergartens for the protection of health in communities.

No patient should therefore be blindly exposed to compulsory vaccination, in defiance of therapeutic freedom, his free and informed consent and the right to his physical integrity. In fact, in such circumstances, any reaction to a compulsory vaccine should be interpreted as an attack on physical integrity.

The right to physical integrity (see above) reflects the principle of inviolability of the human body. This principle has two aspects: prohibition for third parties to interfere with the body of a person and limiting their power to dispose of it on his body.

All rights that the law must grant all human beings form a higher standard, which is in a sense above the law, and which must be respected. Human rights are a set of rules that no public authority should either ignore, nor should impair in any way.

Rigor and prudence must guide all treatment choices of health practitioners, to the benefit of their patients, because it is essential never to harm, in accordance with the precautionary principle, in this case for vaccine use.

Information on a drug or vaccine should be transparently focussed on risks/benefits as compared to the entirety of all the different existing treatment possibilities.

To the patient, the physician should present a general overview of the nature of vaccination, its usefulness and purpose, and the possible consequences which it could cause for the patient.

When information is not given time to the patient, this renders the patient unable to consent knowingly to treatment and physicians must be held responsible for any resulting risks and consequences.

Information regarding the usefulness of treatment is crucial when the value can be so minimal that the doctor must advise against vaccination, especially when the risks outweigh the benefits of a given vaccination. Otherwise, the rule of proportionality is violated.

The patient must be informed of the serious risks of vaccination, especially if the vaccine in question was the subject of withdrawal or temporary suspension in several countries due to the death of persons vaccinated (and certainly in the instances of mortality of young children or babies).

5.- The example of vaccination against cancer of the cervix and that of the vaccinations imposed for environments (pre) school or for certain occupational categories:

If vaccination recommendations may well be conceived within the framework of respect for vaccine freedom, that does not excuse compliance with the law of 22 August 2002 on patient rights.

In the Walloon region of Belgium, a vaccine against cancer of the cervix is provided free of charge since September 2011 to health providers for vaccinating young girls who attend school or who are aged 13-14 years and enrolled in special education.

The fact that the parents of these girls have received a form to complete stating that they authorize vaccination of their children, is obviously not enough to obey the law of 22 August 2002, when for example Article 8. Supra § 2 of the Act of August 22, 2002 specifically provides that *"the information provided to the patient for his consent ... concerning the purpose, nature, the degree of urgency, duration, frequency, contraindications, side effects and risks involved in the intervention and relevant to the patient, follow up care, possible alternatives and financial impact. "*

This is by no measure a "consent form" that can validly replace the legal information required for the consent of a girl or her parents.

For example, the product information for the vaccine in question is 81 pages in length¹⁶.

As for the composition of the product, the instructions clearly warn about the presence of heavy metals in the composition such as aluminium hydroxide, hydrated (Al (OH) 3) with 0.5 milligrams Al³⁺ in total, by dose of the vaccine (which contains the 3-dose schedule).

As for side effects, detailed information is provided on page 20 of the product information.

It follows that for doctors who vaccinate young girls against cancer of the cervix, the mere existence of an "authorization form" signed by parents is insufficient to respect the 2002 law on patient rights. This renders the doctors personally liable for unlawful conduct, and liable for breaking the chain of information which exists in great detail in the inserts and legal notices of vaccine manufacturers.

Every time a doctor vaccinates a girl and that she and her parents do not receive information on the composition, hazards, side effects and medical contraindications against vaccines, this doctor is potentially liable for crimes and offenses in punishable under criminal law in cases of serious or even lethal side effects due to the vaccine that has given so "blind", according to their severity, including:

- Inadequate therapeutic acts and the administration of harmful substances likely to cause death or serious deterioration of health (sections 421 and 398 to 400 of the Belgian Criminal Code);
- Assault and unintentional injuries resulting in death (sections 418 to 420 of the Belgian Criminal Code);
- Failure to assist a person in danger (Articles 422bis and 422ter of the Belgian Penal Code).

The same situation applies to the vaccination requirements for certain occupational categories such as health professionals, fire-fighters, members of law enforcement, military, etc.

On 20 June, 2012, the U.S. media ¹⁷reported the veto by the Republican Governor of South Carolina, Nikki Haley, who "loudly" opposed a bill organizing the promotion of and the free administration of HPV vaccinations in school settings.

6. - Compulsory vaccinations and abuse of the state of vulnerability of their "targets":

Protection of physical integrity is an absolute right guaranteed by Articles 3 and 4 of the European Convention of Human Rights, articles which are not subject to any form of exception. They aim in particular to prevent attacks emanating from public authorities towards people in vulnerable situations.

Working parents who are obliged to place their young children in day care are vulnerable, as are girls attending schools that would be offered the vaccine against cancer of the cervix, or workers in certain professions under the requirement of compulsory vaccinations.

A new Belgian law effective February 3, 2012 represses the abuse of weakness with respect to persons in a vulnerable position.

¹⁶ http://www.ema.europa.eu/docs/en_GB/document_library/EPAR_-_Product_Information/human/000721/WC500024632.pdf

¹⁷ <http://www.inquisitr.com/259455/nikki-haley-vetoes-child-vaccination-bill-calls-it-taxpayer-funded-healthcare-mandate/>

This law establishes a new Article 442quater in the Belgian Penal Code to punish mental destabilization of people and abuse of the weak position of the persons as well as ensuring the legal protection of vulnerable people against abuse.

This new section provides that those abusers will be punished who take advantage with the intent to harm the weakness of people to lead them to an act or omission which adversely affects their integrity or their financial assets. The authors of such abusive acts, however, must be aware of the state of weakness of the person(s) they are abusing.

Patients fulfil the conditions of applicability of the Act as long as they are obliged to commit offenses against physical integrity imposed by vaccinations containing hazardous products such as heavy metals (aluminium, mercury, etc.) in order for them to keep their jobs. This is an utterly unacceptable form of abuse, both for themselves and their children.

The creation of a risk is a fault, just as not following the precautionary principle is a fault.

Patients at risk of losing their job if they were no longer able to benefit from day care services for their young children, or if they refuse to undergo vaccination imposed for reasons related to their occupation, are indeed in a vulnerable position. Mandatory vaccination creates the risk of individuals losing their jobs. The legitimate fear of this loss of income is therefore already an objective ground for vulnerability.

The compulsory vaccination is contrary to respect for autonomy and the will of the patient or his/her relatives.

No doctor should be forced to commit an act which compromises respect for the will of the patient.

In Germany, following a recent conviction on 27 June 2012, of the circumcision of children for religious reasons, by the District Court of Cologne, several German associations of doctors ordered the indefinite postponement of circumcision of children for religious reasons after the practice was declared illegal¹⁸.

In this example, the German Society of Surgery has recommended that parents of Jews and Muslims wait until their child is old enough to decide for himself. This demonstrates that respect for the will of the patient and the prohibition of acts contrary to respect for physical integrity should logically be extended to definitively rule out all mandatory vaccination.

Any mandatory vaccination should be prohibited because it is contrary to respect for the will and constitutes an abuse of weakness.

7. - The prohibition of the use of aluminum and mercury in vaccines: from the insufficient implementation of the precautionary principle in civil procedure to the necessary penal punishment of crime against humanity in criminal procedure.

As we know in terms of civil law the precautionary principle in medical law¹⁹ or, for example that of "endangered"²⁰, they did not, however, result as aluminum and mercury must be prohibited in the composition of vaccines, despite the predictability of damage as a condition of the fault, by the addition of aluminum and mercury in the composition of certain vaccines.

The precautionary principle in medical law *"expresses the realization that our powers exceed our knowledge [...]. While prevention is intended to avoid known risks, precaution tends not to create unknown risks, the*

¹⁸ <http://www.la-croix.com/Actualite/S-informer/Monde/Les-medecins-allemands-reticents-a-pratiquer-la-circuncision- NG -2012-07-01-825786>

¹⁹ Gilles GENICOT, Droit médical et biomédical, *Collection de la Faculté de droit de l'Université de Liège*, Larcier, 2010, page 190.

²⁰ G. SCHAMPS, La mise en danger : un concept fondateur d'un principe général de responsabilité. Analyse de droit comparé, Bruylant / L.G.D.J., 1998

precautionary principle is the wisdom of the scientific and technician which measures knowledge in the light of his ignorance. ²¹"

According to a judgment of the Court of Appeal of Liège May 24, 2004, quoted by Gilles GENICOT²², there exist for a medical intervention (in this case concerning a surgeon), a contractual obligation "to use all means to obtain absolute safety, so that surgery is safe for the patient," being qualified obligation of means and not results, "the knowledge of the physician must [...] be devoted to ensure no damage can be incurred by the patient (*primum non nocere, or first do no harm*)."

"The principle primum non nocere extends to damages that have nothing to do with the early evolution or predictable - without intervention - the health of the patient."

In the context of mandatory vaccines aluminum compounds and / or mercury, we are dealing with medical treatment imposed but unsafe for the patient, including:

- 1) Efficiency as a medical treatment has not been proven 100%;
- 2) Heavy metals component vaccines are indisputably toxic;
- 3) There are alternative medical treatments (vaccines without heavy metals or other effective without side effects and enhancing immunity) less toxic since no heavy metals;

In any case, a doctor who would administer a vaccine containing toxic substances (for example heavy metals such as aluminum and mercury) in violation of the precautionary principle, that is to say, the prohibition to create unknown risks, to make himself guilty of an act and inadequate therapeutic administration of harmful substances such as to seriously affect health.

Creating unknown risk in disregard of the precautionary principle may be likened to a medical experiment.

When a medical experiment is imposed against the free consent of the individual or his parents in the case of a child, it is a violation of the Nuremberg Code.

"The willfully causing great suffering or serious injury to body, to health, ²³" constitute crimes under international law and are punishable under the provisions of the Belgian Act of June 16, 1993 on the suppression of serious violations of international humanitarian law (amended by the Act of February 10, 1999), in Article 3, § 3, 3 and "without prejudice to the penal provisions applicable to offenses committed through negligence."

Similarly are crimes under international law: art. 3, § 3, "9° acts and omissions, not legally justified, which may jeopardize the health and physical or mental integrity of persons protected by the Conventions on the protection of wounded, sick and shipwrecked including **any medical procedure that would not be justified by the health status of the disabled or does not conform to the rules of the medical profession generally recognized;** "

8. - Conclusion:

The freedom of vaccination is the expression of the therapeutic freedom for both the physician and the patient.

No medical procedure can be provided without the prior, free and informed consent of patients or young person capable of making an informed decision (whether or not they have reached the legal majority of 18 years of age), as per the law of 22 August 2002 on patient rights.

²¹ Gilles GENICOT, Droit médical et biomédical, Collection de la Faculté de droit de l'Université de Liège, Larcier, 2010, page 421, citant Y. LAMBERT-FAIVRE, Droit du dommage corporel. Systèmes d'indemnisation, Dalloz, 4^e éd., 2000, 793-798, sp. N° 650

²² Gilles GENICOT, Droit médical et biomédical, *Collection de la Faculté de droit de l'Université de Liège*, Larcier, 2010, page 435, note 475, Liège, 24 mai 2004, R.G.A.R., 2005, n° 13.999

²³ <http://www.worldpolicy.org/sites/default/files/uploaded/image/Belgique-loi.pdf>

Many of the substances contained in vaccines are toxic and may contain significant amounts of heavy metals such as, for example mercury and aluminium in doses exceeding the standards in this area. No safe threshold for mercury exists²⁴ and/or aluminium, which are still toxic, even in very small doses²⁵.

No patient can thus, against his will, be blindly placed in a situation of threat to his or her health or exposed to compulsory vaccination, in defiance of therapeutic freedom, of free, prior and informed consent and the absolute right to respect for physical integrity. In fact, any reaction to the vaccine should be understood as an attack on physical integrity. Alleged protection of the community is strictly irrelevant in legal terms in this regard.

Any recommendation for a vaccine which does not take the form of a simple recommendation, where it is imposed against the free consent of patients, is fraudulent, unlawful and constitutes a serious violation of a person's physical integrity.

Protecting the physical integrity of patients cannot be compromised by the alleged pretext of protection of communities, whilst these pretexts are contribute to building mercantile monopolies favouring a minority of multinationals at the detriment of the objective of protecting public health.

The scandal of the false H1N1 pandemic already demonstrated an unhealthy proximity between industry and "scientific" government advisers that led to the signing of "secret" contract for the mass purchase of vaccines (12.4 million doses) in Belgium. "The proximity between the state and the pharmaceutical company was reflected repeatedly in the text. Behind the need to display a facade of independence, the Ministry and maintain GSK maintain close ties behind the scenes"²⁶

This close proximity between decision makers, scientific advisors, officials, etc., for the purchase of these pandemic vaccines, was clearly condemned in the last public hearing held in Paris by the Council of Europe March 29, 2010²⁷

Promoting the interests of industry with the complicity of certain politicians themselves hostages of the industry is inevitably accompanied by methods to disparage and discredit, and the non-recognition of all the alternatives or approaches perceived as competing that appear unfairly eliminated at all costs at the expense of real medicine and real science.

This misappropriation of science and medicine to the detriment of respect for the purpose of protecting public health, and including the effective protection of communities, has been illustrated recently by banning a natural product Tic-Tox against the effects of Lyme disease (borreliosis), while "there is a vaccine against Lyme disease (FSME Immun CC, Ticovac, Encepur etc.), not without risk if we read the figures, "remarkable for their precision", that are mentioned on the site of INFOVAC Switzerland, which states:" the serious neurological complications are very rare (1 in 70,000 to 1 in 1 million doses of vaccine)."²⁸

The inclusion in the list of sources of international law applicable "general principles of law recognized by civilized nations" should maximize the judicially enforceable area of international law and to "push it to the limit the productivity of its sources"²⁹.

These principles form a source of law independent of law and custom, as though by their rational character to a common legal fund. Two methods allow one to discover the general principles on the one hand the pragmatic method whereby the general principles are those that reveal the international practice, including those invoked in

²⁴ Robin A. Bernhoft, "Mercury Toxicity and Treatment: A Review of the Literature," *Journal of Environmental and Public Health*, vol. 2012, Article ID 460508, 10 pages, 2012. doi:10.1155/2012/460508

<http://www.hindawi.com/journals/jep/2012/460508/ref/>

²⁵ Bernhoft, Robin; Buttar, Rashid. "Autism: a multi-system oxidative and inflammatory disorder" *The Free Library* 01 April 2008. 29 March 2012 <<http://www.thefreelibrary.com/Autism:a+multi-system+oxidative+and+inflammatory+disorder.-a0178220987>>. <http://69.164.208.4/files/Autism--%20A%20Multi-System%20Oxidative%20and%20Inflammatory%20Disorder.pdf>

²⁶ <http://www.mediattitudes.info/2010/05/vaccin-h1n1-le-contrat-secret-de-letat.html>

²⁷ http://assembly.coe.int/ASP/NewsManager/FMB_NewsManagerView.asp?ID=5416&L=1

²⁸ <http://www.initiativecitoyenne.be/article-pluralisme-therapeutique-mis-a-mal-perte-de-chances-pour-les-patients-100758166.html>

²⁹ Charles de Visscher, *Théories et réalités en droit international public*, Paris, Pedone, 1953, p. 426, citant D. Anzilotti

the political or international adjudicative bodies and welcomed by those bodies and on the other hand the method which consists in the systematic search for rules by the techniques of comparative law³⁰.

A very interesting example of the emergence of general principles of law was provided to us by the European environmental law in the context of the legal relationship between the legal rule and the principle which is a legal proposition that is not necessarily written and gives general guidelines, Directives to which positive law must comply³¹. Like the scope of the principles in environmental law, the advantage of principles on Freedom of vaccine, is that they can be contained in flexible instruments of action, such as international declarations, even if not even legally binding, but authoritative, for a global consensus on the protection of physical integrity and the inviolability of the human body.

The Court of Justice of the European Community has identified the general principles of law in a quasi-normative manner on the basis of systematic methods of interpretation, in referring to various organized judicial systems.

Whether designated as basic or general, principles are superior legal rules that result from positive law designed as a hierarchy of standards, which, in the hierarchy of Community law, are second only to treaties.

General principles of human rights in the protection of human health are already sanctioned at universal level and they are expected to have an impact in the law applicable to immunizations:

- The principle of the inviolability of human dignity³²;
- The principles of protecting the physical integrity of the human body, and health freedom;

Ultimately, in order to fully exercise their right to health, patients who protect themselves through voluntarily choosing vaccines or other therapeutic means, within their right to exercise their therapeutic freedom, accompanied by the professional expertise of their physicians, respect the principle which forms the basis itself of medicine: "primum non nocere" (first do no harm), whereby they take the least iatrogenic possible measures toward good health for themselves and/or their child(ren), to the benefit of the community and humanity as a whole.

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³⁰ Jean Salmon, *Droit des Gens*, Tome I, Sources, Presses Universitaires de Bruxelles, 1991, p. 124

³¹ Nicolas de Sadeleer, *Les principes du pollueur-payeur, de prévention et de précaution*, Essai sur la genèse et la portée juridique de quelques principes du droit de l'environnement, Bruylant, 1999, p. 233

³² Rapport du Parlement européen sur les incidences éthiques, juridiques, économiques et sociales de la génétique humaine, Commission temporaire sur la génétique humaine et les autres technologies nouvelles de la médecine moderne, 8 novembre 2001, p. 16, n° 3