European Health Law and Non-communicable Diseases

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Overview of the presentation

- EU competences
- European health law and policies on NCDs caused by
  - Tobacco use
  - Alcohol abuse
  - Unhealthy diets
  - Lack of physical activity
- EU cooperation with WHO Europe
Relevant fields of EU competence

- Public health
- Human rights
- Internal market
Legal basis of EU competences

- Public health → «Health in all policies»

  - **Art. 6 TFEU**: The Union shall have competence to carry out actions to support, coordinate or supplement the actions of the Member States for the protection and improvement of human health.

  - **Art. 9 TFEU**: In defining and implementing its policies and activities, the Union shall take into account requirements linked to the protection of human health.

  - **Art. 168 TFEU**: A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities. Union action shall complement national policies.
Human rights

- **Art. 35 (Health care) of EU Charter of Fundamental Rights**
  Everyone has the right of access to preventive health care and the right to benefit from medical treatment under the conditions established by national laws and practices. A high level of human health protection shall be ensured in the definition and implementation of all Union policies and activities.

- **Art. 24 (The rights of the child) of EU Charter of Fundamental Rights**
  Children shall have the right to such protection and care as is necessary for their well-being. In all actions relating to children, whether taken by public authorities or private institutions, the child’s best interests must be a primary consideration.

- **Art. 3.3 TUE**
  The Treaty of Lisbon introduced an objective for the EU to promote the protection of the rights of children
Internal market / Harmonisation measures

- **Art. 114 TFEU**
  The European Parliament and the Council shall adopt the measures for the approximation of the provisions laid down by law, regulation or administrative action in Member States which have as their object the establishment and functioning of the internal market.

The Commission, in its proposals concerning health, safety, environmental protection and consumer protection, will take as a base a high level of protection, taking account in particular of any new development based on scientific facts. Within their respective powers, the European Parliament and the Council will also seek to achieve this objective.
Non-communicable diseases

- Non-communicable diseases (NCDs), also known as chronic diseases, tend to be of long duration and are the result of a combination of genetic, physiological, environmental and behavioural risk factors.

- The main types of NCDs are cardiovascular diseases (like heart attacks and stroke), cancers, chronic respiratory diseases (such as chronic obstructive pulmonary disease and asthma) and diabetes.

- NCDs kill 40 million people each year, equivalent to 70% of all deaths globally. They disproportionately affect people in low- and middle-income countries where more than three quarters of global NCD deaths – 31 million – occur.
Modifiable behaviours, such as tobacco use, physical inactivity, unhealthy diet and the harmful use of alcohol, all increase the risk of NCDs.

EU action contributes to the achievement of global and European targets on relative reduction of premature mortality from the four major NCDs:

- 1.5% annually by 2020 (Health 2020);
- 25% by 2025 (global NCD monitoring framework);
- and one third by 2030 (Sustainable Development Goals) (baseline 2010).
EU action on chronic diseases

The EU promotes a comprehensive approach to tackling the chronic disease burden in Europe:

- efficiently addressing major risk factors (smoking, alcohol abuse, unhealthy diet & lack of physical activity)
- systematically integrating policy and action to reduce inequalities in health
- addressing mental health & well-being
- supporting public-awareness-raising and disease-prevention campaigns that actively target high-risk groups and individuals.

- in relation to cancer, encouraging cooperation by providing a partnership for a wide range of stakeholders across the EU
Focus on selected preventable risk factors

- Smoking
- Alcohol abuse
- Unhealthy food
- Lack of physical activity
Despite considerable progress made in recent years, the **number of smokers in the EU is still high**: 28% of the overall population and 29% of young Europeans aged 15-24 smoke.

To address this situation, the European Union and its Member States have taken various **tobacco control measures** in the form of legislation, recommendations and information campaigns.

These **public health measures** aim at protecting citizens from the hazardous effects of smoking and other forms of tobacco consumption, including against second-hand smoke.
EU measures against smoking

EU policy measures include:

- the regulation of tobacco products on the EU market (e.g. packaging, labelling, and ingredients) → Tobacco Products Directive

- advertising restrictions for tobacco products → Tobacco Advertising Directive

- the creation of smoke-free environments → Council Recommendation 2009

- tax measures and activities against illicit trade → Excise Duty Directive

- anti-smoking campaigns.
EU legislation on tobacco control


Legislative action at Union level was also necessary in order to implement the WHO Framework Convention on Tobacco Control of 21 May 2003 (entered into force on 27 February 2005), the provisions of which are binding on the Union and its Member States.

The EU ratified the FCTC on 30 June 2005.

The EU also ratified the Protocol to Eliminate Illicit Trade in Tobacco Products (Seoul, 12 November 2012 – not yet in force) on 24 June 2016.
EU competences with regard to FCTC

- **Exclusive competence**
  - The EU has exclusive competence to act with respect to the matters covered by the FCTC Protocol that fall under the scope of the common commercial policy of the EU (Article 207 TFEU)

  - In addition, the EU has exclusive competence to act with regard to matters covered by the FCTC Protocol that fall under the scope of customs cooperation (Article 33 TFEU), approximation of laws in the internal market (Articles 113 and 114 TFEU), judicial cooperation in criminal matters (Article 82 TFEU) and definition of criminal offences (Article 83 TFEU), only insofar as the provisions of a Union act establish common rules that may be affected or altered in scope by provisions of the FCTC Protocol.
EU legislation

Tobacco Products Directive


- entered into force on 19 May 2014 and applicable since 20 May 2016
Tobacco Products Directive

- Legal basis: art. 114 TFEU

- The Directive lays down rules governing the manufacture, presentation and sale of tobacco and related products.

- These include cigarettes, roll your own tobacco, pipe tobacco, cigars, cigarillos, smokeless tobacco, electronic cigarettes and herbal products for smoking.

- The objective of the Directive is to approximate the laws, regulations and administrative provisions of the Member States in order to facilitate the smooth functioning of the internal market for tobacco and related products, taking as a base a high level of protection of human health, especially for young people, and to meet the obligations of the Union under the WHO FCTC.
The Directive prohibits cigarettes and roll-your-own tobacco with characterising flavours,
requires the tobacco industry to report to EU countries on the ingredients used in tobacco products,
requires health warnings on tobacco and related products. Combined (picture, text and information on how to stop) health warnings must cover 65% of the front and back of cigarette and roll-your-own tobacco packages,
sets minimum dimensions for warnings and prohibits small packages for certain tobacco products,
Tobacco Products Directive

- bans **promotional and misleading elements** on tobacco products, e-cigarettes and herbal products for smoking,
- introduces **EU-wide tracking and tracing** to combat the illicit trade of tobacco products,
- allows EU countries to **prohibit internet sales** of tobacco and related products,
- sets out safety, quality and notification requirements for **electronic cigarettes**, and
- obliges manufacturers and importers to **notify EU countries about novel tobacco products** before placing them on the EU market.
Tobacco Products Directive

Judgments of 4 May 2016 of the Court of Justice of the EU

- Cases C-358/14 Poland v Parliament and Council
- C-477/14 Pillbox 38(UK) Limited v Secretary of State for Health
- C-547/14 Philip Morris Brands SARL and Others v Secretary of State for Health

The Court of Justice ruled that the extensive standardisation of packaging, the future EU-wide prohibition on menthol cigarettes and the special rules for electronic cigarettes are lawful.
Tobacco Advertising Directive


- Legal basis: art. 95 TEC (now art. 114 TFEU)

- The Tobacco Advertising Directive places an EU wide ban on cross-border tobacco advertising and sponsorship in the media other than television. The ban covers print media, radio, internet and sponsorship of events involving several Member States, such as the Olympic games and Formula One races. Free distribution of tobacco is banned in such events. The ban covers advertising and sponsorship with the aim or direct or indirect effect of promoting a tobacco product.

see Article 13 WHO FCTC
Excise Duty on Tobacco Directive


- High **taxes on tobacco products** are extremely effective in reducing tobacco use, with a particularly big impact on young people. The Directive 2010/12/EU on excise duty on tobacco amends the structure and rates of duty with public health goals in mind.

- The overall excise duty (specific duty and *ad valorem* duty excluding VAT) on cigarettes shall represent at least 57% of the weighted average retail selling price of cigarettes released for consumption.

*see Article 6 WHO FCTC*
Smoke-free environments

- **Council Recommendation on Smoke-Free Environments** (2009) calls on Member States to adopt and implement laws to protect citizens from exposure to tobacco smoke in enclosed public places, workplaces, and public transport. It also calls for the enhancement of smoke-free laws with supporting measures to protect children, encourage efforts to quit smoking and display pictorial warnings on cigarette packages.

- **Total bans on smoking** in all enclosed public places and workplaces, including bars and restaurants are in place in Ireland, the UK, Greece, Spain and Hungary.

- Italy, Sweden, Malta, Latvia, Finland, Slovenia, France, the Netherlands, Cyprus and Poland, have introduced smoke-free legislation, however, allowing for special enclosed smoking rooms.

- In the remaining Member States, smoke-free laws give exemptions for certain public places such as bars and restaurants.

*see Article 8 WHO FCTC*
The EU alcohol strategy

- Current EU regulations do not ban alcohol advertising unless it is explicitly targeted at minors.
- Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions An EU strategy to support Member States in reducing alcohol related harm (COM/2006/0625 final)
- The Communication establishes a strategy to support EU countries in reducing the health, economic and social problems related to harmful and hazardous alcohol consumption.
- The strategy sets priority themes, identifies the different levels of action and lists the measures taken by EU countries to encourage good practices. It also invites all other interested parties to take measures to reduce alcohol-related harm. Action by the European Commission has complemented national strategies in this area.
Priorities

1. Protecting young people, children and the unborn child — this includes 3 specific aims:
   - curbing underage drinking, and reducing hazardous and harmful drinking among young people,
   - reducing the harm suffered by children in families with alcohol-related problems,
   - reducing exposure to alcohol during pregnancy.

2. Reducing alcohol-related road deaths and injuries

3. Reducing alcohol-related harm among adults and its negative impact on the workplace — the specific aims are to:
   - decrease alcohol-related chronic physical and mental disorders,
   - decrease the number of alcohol-related deaths,
   - provide information to consumers so that they can make informed choices,
   - contribute to the reduction of alcohol-related harm at the workplace.
4. **Informing, educating and raising awareness** — particular emphasis is placed on the impact of harmful and hazardous alcohol consumption on:
   - the unborn child,
   - underage drinkers,
   - working and driving performance.

5. **Developing, supporting and maintaining a common evidence base** — gathering comparable information on a number of issues including:
   - consumption levels,
   - drinking patterns,
   - social and health effects of alcohol.
Unhealthy food

- EU Commission's Strategy on Nutrition, Overweight, and Obesity-related Health Issues (2007): aims at contributing to reduce the risks associated with poor nutrition and limited physical activity in the European Union


- Council Conclusions on Nutrition and Physical Activity (2014)

- Joint Action on Nutrition and Physical Activity, involving 25 Member States, started in September 2015
EU platform for action on diet, physical activity and health

The EU platform is a forum for European-level organisations, ranging from the food industry to consumer protection NGOs, willing to commit to tackling current trends in diet and physical activity.
WHY AN

1 IS THIS A PROBLEM?

"Obesity, an unhealthy diet and physical inactivity have strong linkages with the four main non-communicable diseases."

- cancer
- diabetes
- cardiovascular
- chronic respiratory

2 STRATEGY FOR EUROPE ON NUTRITION, OVERWEIGHT AND OBESITY-RELATED HEALTH ISSUES (2007)

3 EFFECTIVE PARTNERSHIPS

4 EU PLATFORM FOR ACTION ON DIET PHYSICAL ACTIVITY AND HEALTH

- 33 European associations
- membership more than doubled since establishment in 2005

5 VOLUNTARY ACTIONS IN 6 AREAS (NO. OF ACTIONS IN 2011)

- Advocacy and information exchange (22)
- Marketing and advertising (10)
- Composition of foods, availability of healthy options, portion sizes (15)
- Consumer information including labelling (13)
- Education and lifestyle modification (62)
- Physical activity promotion (15)

6 RECENT ACHIEVEMENTS

- Number of people reached in 2011: 14 million individuals, 80 million virtual users
- Number of commitments implemented in more than 1 EU country: 87 out of 135 currently active
- Number of commitments valid beyond 2013: 68 out of 135 currently active
- Significant improvement in quality objectives of commitments more specific

1 in 2 people is overweight or obese*

* In over half of OECD countries

MULTI-STAKEHOLDER APPROACH
The overarching goal of the Action Plan on Childhood Obesity is to contribute to halting the rise in overweight and obesity in children and young people (0-18 years) by 2020.

To achieve this goal, the active participation of a wide range of stakeholders is necessary. The Action Plan specifies a set of operational objectives that have been designed to guide the actions of stakeholders across eight priority areas.

The Action Plan identifies three main types of stakeholder that will play an important role in achieving its overarching goal: the 28 EU Member States, the European Commission and international organisations such as the WHO and civil society.
The Action Plan deals with complex phenomena that will require long-term approaches to bring about change. The Action Plan is envisaged to cover the six years between 2014 and 2020 and is based on eight key areas for action:

- Support a healthy start in life;
- Promote healthier environments, especially in schools and pre-schools;
- Make the healthy option the easier option;
- Restrict marketing and advertising to children;
- Inform and empower families;
- Encourage physical activity;
- Monitor and evaluate;
- Increase research.
WHO Europe

- Health 2020 Strategy
- WHO European Strategy for the Prevention and Control of NCDs
- Action plan for the prevention and control of NCDs in the WHO European Region (2016-2025)
European policy framework

Health 2020: the European policy for health and well-being

It aims to support action across government and society

The two strategic objectives are:

- improving health for all and reducing health inequalities
- improving leadership and participatory governance for health.

The four priority areas are to:

- invest in health through a life-course approach and empower citizens,
- tackle Europe’s major disease burdens of non-communicable and communicable diseases;
- strengthen people-centred health systems and public health capacity, including preparedness and response capacity for dealing with emergencies; and
- create supportive environments and resilient communities.
Cooperation between the European Commission and WHO Europe

2010 Joint Declaration
Priority Area: 6b Chronic and non-communicable diseases

The European Commission and WHO Europe agreed to:

- **Support Member States, Regions and other stakeholders to develop policies and activities to address the chronic disease challenge through action on addressing determinants of health across the life course— including social and environmental determinants and health related behaviours particularly diet, physical activity, alcohol and tobacco use work on mental health and well-being disease prevention and management of chronic diseases.**

- **Strengthen capacity building, technical assistance, information sharing and monitoring to address chronic diseases.**
On tobacco, the big achievement was the new EU Tobacco Products Directive, which entered into force in May 2014. Enhanced efforts are needed for the full implementation of the WHO Framework Convention on Tobacco Control (FCTC) by parties, and further development of tobacco control policies and activities in the WHO European Region.

In 2014, the 64th WHO Regional Committee has tasked the WHO Regional Director for Europe, inter alia, to develop, a roadmap of actions to contribute to the achievement of the global target on non-communicable diseases related to tobacco use; to this end, collaboration between WHO Regional Office for Europe and DG SANTE is a useful tool to address the EU countries of the WHO European Region in a structured manner. Further issues of cooperation include trade, and illicit trade.
On alcohol, WHO/Europe has received direct grants for monitoring development in Member States to ensure a good knowledge base. WHO/Europe is observer of the Committee on National Alcohol Policy and Action and the European Alcohol and Health Forum. WHO/Europe is a collaborating partner to the Joint Action on reducing alcohol related harm. WHO/Europe will monitor the EC action plan on Youth Drinking and on Heavy Episodic Drinking (Binge Drinking) 2014 – 2016 as part of a new direct grant agreement.

On nutrition and physical activity, WHO/Europe has received direct grants for monitoring the development of the situation in the Member States, so as to ensure a good knowledge base, including the social inequalities dimension. It is collaborating on the development of the monitoring plan of the Action Plan on Childhood Obesity. WHO is also an observer of the High Level Group on Nutrition and Physical Activity and of the EU platform for action on diet, physical activity and health.
On chronic diseases policy – WHO/Europe took part in the EU Chronic Diseases summit in April 2014. The EU played a key role in the UN NCD process, and the successive special sessions of the UN General Assembly. Synergies were developed between the NCD approach for Europe and EU action. WHO/Europe is also a partner in the chronic disease joint action, CHRODIS.

On integrated surveillance of NCDs, the WHO/Europe and the EC have started collaboration through the iNCD project which is co-financed with the EC. The main aim of this project is to describe how Member States of the European Union can optimise their use of the European Core Health Indicators (ECHI) shortlist to report on progress towards reaching the nine voluntary global targets of the Global Monitoring Framework on NCDs.
Collaboration between WHO and the European Commission on promoting physical activity for health

This joint collaboration between WHO and European Commission – Directorate-General for Education and Culture (DG- EAC) has set the following project objectives:

- to develop and scale-up monitoring and surveillance of health-enhancing physical activity (HEPA) in the EU Member States;
- implementation of National PA Focal Points Network within the WHO European Region (EU support to cover EU countries);
- increase the number of available indicators of the Nutrition, Obesity and Physical Activity Information System (NOPA) database in the area of PA, as appropriate in compliance with the planned Council Recommendations on HEPA, and in updating the available data and creating useful visualization tools; and
- provide technical assistance for the development of PA guidelines in certain Member States.