



Spotlight on the Framework Convention on Tobacco Control (FCTC)

ISSUE TWO/APRIL 2008



Article 8

Protection from Exposure
to Tobacco Smoke



Protection from Exposure to Tobacco Smoke – Article 8

The **FCTC** is the world's first international public health treaty. It sets out legally binding objectives and principles that countries or organisations such as the European Community (EC)¹ who ratified and thus agreed to implement the Treaty (known as Parties) must follow. It aims to protect present and future generations from the devastating health, social, environmental and economic consequences of tobacco consumption, and exposure to tobacco smoke.

What is second-hand tobacco smoke (SHS)?

SHS refers to the smoke from burning tobacco products, generated by people smoking them. There are more than 4,000 chemicals in tobacco smoke including 69 known carcinogens. When tobacco smoke contaminates the air, it is breathed by everyone – smokers and non-smokers alike².

How were the guidelines developed?

May 2006: Finland, Ireland and New Zealand act as key facilitators leading on the development of the guidelines on SHS. They agree that the guidelines should be a “how to” manual providing options based on successful strategies.

1-3 November 2006: Key facilitators and other Parties (including the European Commission, France, Germany, Hungary, Sweden and the UK) meet in Dublin. Representatives from the International Union against Cancer (IICC) and the Framework Convention Alliance (FCA), representing civil society, also participate.

January 2007: The draft guidelines (developed at the Dublin meeting) are reviewed by Cape Verde, the Marshall Islands, Norway and Palau.

June 2007: At COP 2 in Bangkok the draft guidelines are **unanimously** adopted.

Does the FCTC cover exposure to second hand tobacco smoke?

Yes. Article 8 explicitly states that all parties that ratify the Treaty are legally obliged to protect everyone from exposure to second hand smoke. Parties to the FCTC “*recognise that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability*” (Art 8.1).

What is the impact of SHS?

About 79,000 adults in the EU die each year as a result of second-hand smoke³ and approximately 7.5 million workers in the EU are exposed to second-hand smoke at work⁴.

Does this impact the EU and its Member States?

Yes. The EC and 25 EU Member States have ratified the FCTC (apart from the Czech Republic and Italy) so are obliged to implement Article 8 within three years of ratifying the FCTC.

Why were further guidelines necessary?

Article 8 is brief and broadly worded so Parties needed guidance on how to meet their obligations. The guidelines are in line with scientific evidence and identify the key elements of legislation necessary to effectively protect people from exposure to SHS.

What are the key elements of the guidelines?

The guidelines reflect the fact that there is no safe level of exposure to tobacco smoke. Binding legislation with no exemptions (so 100% smokefree) is necessary. Experience shows that voluntary measures do *not* work⁵. Legislation must be clear, simple and enforceable. Governments wishing to introduce or improve their smokefree policies should refer to the guidelines as the gold standard.

- Only **100% smoke-free environments** can protect against SHS. It has been repeatedly shown that other approaches including ventilation, air filtration, and the use of designated smoking areas are ineffective.
- Voluntary measures do not work. Legislation is necessary to protect people from exposure to SHS. **Legislation** must simple, clear and enforceable.
- **All** people should be protected not just vulnerable groups.
- **Good planning** and **adequate resources** are essential for successful implementation and enforcement of smoke-free legislation including building public support.
- **Civil Society** is central in building support for and ensuring compliance with smokefree legislation.
- **Enforcement and monitoring** should include responding to the tobacco industry's activities to undermine smokefree measures.
- Smokefree measures should continue to reflect **new scientific evidence** and case-study experience.

¹ EC means where the Member States of the EU agree to share power in certain policy areas and share common institutions, such as the Council, the European Parliament and the European Commission.

² SHS is also referred to as involuntary smoke, passive smoking or environmental tobacco smoke

³ “Lifting the smokescreen: 10 reasons for a smoke free Europe”, published by the Smoke Free Partnership 2006.

⁴ European Respiratory Journal 2006; 28:397-408, M. S. Jaakkola and J. J. K. Jaakkola

⁵ American Society of Heating, Refrigeration and Air Conditioning Engineers (2005). <http://www.ashrae.org>

The European Commission

In January 2007, the Commission published a **Green Paper** “Towards a Europe free from tobacco smoke: policy options at EU level” launching a broad public consultation on the best way to promote smoke-free environments in the EU. The Commission sought the views of stakeholders on different policy options to tackle SHS and the most appropriate form of EU intervention. Options ranged from allowing Member States to draft their own legislation to introducing binding EU legislation.



The Commission received more than 300 contributions from a wide range of groups and individuals including national governments (18), healthcare professionals, health NGOs (63) and tobacco related organisations (33). The Commission is expected to come forward with proposals based on the responses by the end of 2008. In its response, the Smoke Free Partnership supports introducing smoke free legislation at national level based on the FCTC guidelines⁶.

The European Parliament

Disappointingly the Parliament's own comprehensive smoking ban only lasted a paltry 43 days. The ban, introduced in all the Parliament buildings in Belgium, France and Luxembourg on 1 January 2007, followed a ruling by the European Ombudsman who found that the Parliament was failing to protect the health of its staff. Following the decision by the Parliament's Bureau (a group of senior MEPs who set the Parliament's internal rules) to amend the ban, smoking areas have now been re-instated.

In October 2007 the Parliament prepared an own initiative report⁷ in response to the Commission's Paper. The non-binding Resolution, approved by a strong majority of MEPs, calls on EU Member States to introduce comprehensive smoking bans within two years. The Resolution also rebukes MEPs and the Parliament's staff for the flouting Parliament's existing rules on smoking in Parliament's buildings e.g. by smoking in staircases or in the Open Members' bar in Strasbourg. The report calls on the Bureau, in the light of its duty to set an example, to implement a full smoking ban **with no exemptions** in all parts of the European Parliament.

⁶ http://www.smokefreepartnership.eu/IMG/pdf/SFP_Response_to_the_Green_Paper_on_Smoke_Free.pdf

⁷ <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A6-2007-0336+0+DOC+XML+V0//EN&language=EN>

The guidelines also clarify key definitions

Smoke-free air: 100% smokefree includes (but is not limited to) air in which tobacco smoke cannot be seen, smelled, sensed or measured.

Smoking: Includes being in possession or control of a lit tobacco product regardless of whether the smoke is being actively inhaled or exhaled.

Public places: Should be defined as broadly as possible including all places accessible to the general public.

Indoor/enclosed: Should be as inclusive and clear as possible, include any space covered by a roof or enclosed by one or more walls or sides (regardless of type of material used) and regardless of whether the structure is permanent or temporary.

Workplaces: Should be defined as broadly as possible such as 'any place used by people during their employment or work' and include corridors, lifts, stairwells, lobbies, cafeterias, toilets and outbuildings.

Public transport: including any vehicle use for transporting members of the public for reward or commercial gain (including taxis).

German MEP Karl Heinz-Florenz (responsible for steering the Resolution through Parliament) and other MEPs successfully fought off strong lobbying from pro-tobacco interests in favour of exemptions. Whilst the report has no legal power, the size of the majority backing it gives it considerable political weight.

EU Member States

In 1989, and again in 2002, EU Health Ministers endorsed non-binding Council Recommendations⁸ calling on Member States to take steps toward banning smoking in certain public places and on public transportation. However, EU Member States are not bound by EU legislation to implement comprehensive smokefree legislation in all work places.

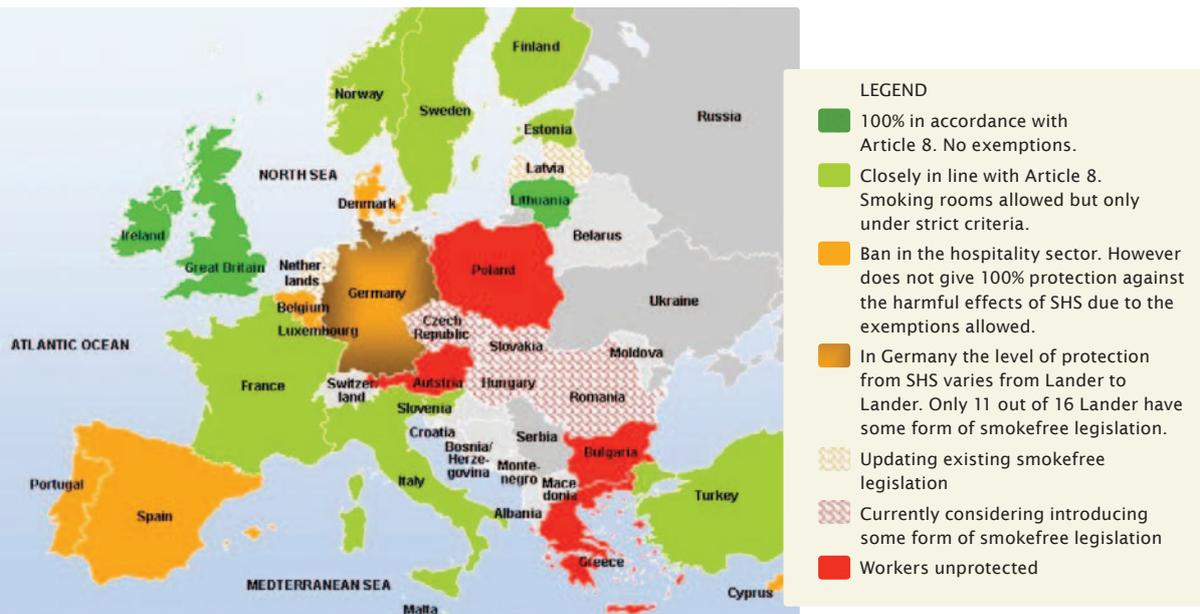
The 25 EU Member States that have ratified the FCTC and adopted the guidelines on Article 8 have thereby agreed that binding comprehensive legislation is the only way to successfully protect people from SHS. Disappointingly only 10 EU Member States (Estonia, France, Finland, Ireland, Italy, Malta, Lithuania, Slovenia, Sweden and the UK) have enacted comprehensive national legislation which reflects the principles outlined in the guidelines.

Do smoking bans work?

There is a growing body of evidence demonstrating that comprehensive smoking bans have a positive impact on people's health.

⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:41989X0726:EN:NOT> and <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32003H0054:EN:NOT> <http://www.tri.ie/Portals/0/AJRCCM%20Effects%20of%20ban%2001.07.pdf>

Snapshot of smoke free legislation in the EU as of March 2008



Some of the evidence supporting smokefree legislation

- **IRELAND:** A 2007 report found that a total workplace smoking ban results in a significant reduction in air pollution in pubs and an improvement in respiratory health in bar workers⁹.
- **SCOTLAND:** A study of nine Scottish hospitals found a 17% fall in admissions for heart attacks in the first year after the smoking ban came into force¹⁰. Scottish studies of the economic impact of smoking restrictions on the hospitality sector

failed to find any statistically significant negative effect¹¹.

- **ITALY:** A 2008 report compared acute coronary events in Rome for five years preceding a public smoking ban with those occurring one year after the ban. It found an 11.2% reduction in heart attacks in 35 to 64 year olds and a 7.9% reduction in 65 to 74 year olds¹².
- **USA:** A 2006 report on The Health and Economic Impact of New York's Clean Indoor Air Act found that "the law has not had an adverse financial impact on bars and restaurants."¹³

⁹ McCaffrey M, Goodman PG, Kelleher K, Clancy L. Smoking, occupancy and staffing levels in a selection of Dublin pubs pre and post a national smoking ban, lessons for all. Irish Journal of Medical Science. Volume 175, Number 2 http://www.ijms.ie/Portals/_IJMS/Documents/OP-Clancy.pdf.

¹⁰ Three of the studies were published the British Medical Journal and one in the Annals of Occupational Hygiene.

¹¹ <http://www.healthscotland.com/researchcentre/pdf/InternationalReviewShortReport.pdf>

¹² American Heart Association. "Heart Attacks Decreased After Public Smoking Ban in Italy." ScienceDaily 12 February 2008. 6 March 2008 <<http://www.sciencedaily.com>

¹³ "The Health and Economic Impact of New York's Clean Indoor Air Act, July 2006", New York State Department of Health, http://www.health.state.ny.us/prevention/tobacco_control/docs/ciaa_impact_report.pdf.

FOR FURTHER INFORMATION SEE:

- For the full text of the FCTC see: www.who.int/tobacco/framework/WHO_FCTC_english.pdf
- WHO: www.who.int/tobacco/framework/en
- Guidelines for implementation of Article 8 www.who.int/gb/fctc/PDF/cop2/FCTC_COP2_17P-en.pdf
- The Framework Convention Alliance for Tobacco Control (FCA): www.fctc.org



The Smoke Free Partnership (SFP) is a strategic, independent and flexible partnership between the European Respiratory Society, Cancer Research UK and the Institut National du Cancer. It aims to promote tobacco control advocacy and policy research at EU and national levels in collaboration with other EU health organisations and EU tobacco control networks.

Editors: Florence Berteletti Kemp, Grainne Crowley and Archie Turnbull

Smokefree Partnership
7B, 49-51 Rue de Treves, 1040 Brussels, Tel: +32 2 238 53 63, Fax: +32 2 238 53 61
www.smokefreepartnership.eu