Opinion of the European Economic and Social Committee on the 'Proposal for a Council Recommendation on smoke-free environments'

COM(2009) 328 final — 2009/0088 (CNS)

(2010/C 128/15)

Rapporteur: **Mr LUCAN**

On 8 July 2009, the European Commission decided to consult the European Economic and Social Committee, on a voluntary basis, under Article 262 of the Treaty establishing the European Community, on the

Proposal for a Council Recommendation on smoke-free environments

COM(2009) 328 final – 2009/0088 (CNS).

The Section for Employment, Social Affairs and Citizenship, which was responsible for the Committee's work on the subject, adopted its opinion on 15 October 2009.

At its 457th plenary session, held on 4 and 5 November 2009 (meeting of 5 November 2009), the European Economic and Social Committee adopted the following opinion by 81 votes, to 68 against and with nine abstentions.

1. Specific recommendations

1.1. **With regard to Article 1** of the section on recommendations to the Member States

1.1.1. Effective protection from exposure to tobacco smoke should apply simply to 'workplaces' especially indoor workplaces with no separate areas for smokers.

1.1.2. With regard to Article 8(2) of the WHO Framework Convention on Tobacco Control (FCTC), the Committee recommends that the wording 'as appropriate, other public places' be amended to cover all public places frequented by children and young people up to eighteen years of age.

1.1.3. The Committee calls on the Council to consider shortening the three-year adoption timeframe proposed by the Commission. Otherwise, the current generation of secondary school pupils (14-18 years), who are at risk of going from passive smoking to active smoking, will slip through the net.

1.2. **With regard to Article 2** of the section on recommendations to the Member States

1.2.1. 'Educational and counselling strategies at EU level shall play a key role in all educational establishments.' The Committee recommends that this paragraph be extended to stress the importance at EU level of school-based educational and counselling strategies, to ensure that every child or young person is correctly, fully and regularly informed of the realities of smoking and its harmful effects, and of the carcinogenic effects of exposure to environmental tobacco smoke (ETS).

1.3. **With regard to Article 3** of the section on recommendations to the Member States

1.3.1. Complement smoke-free policies with supporting measures, including:

(c) extending the scope of Directive 2004/37 on exposure to carcinogens or mutagens at work (to include ETS);

(d) bolstering the requirements regarding the protection of workers from tobacco smoke in Directive 89/654/EEC, so as to require all employers to ensure that smoking is prohibited in their workplace;

(e) amending the Directive on dangerous substances (67/548/EEC) (1991) so as to classify ETS as a carcinogen. This would automatically place ETS within the scope of the Directive on exposure to carcinogens or mutagens at work as regards the minimum workplace health and safety requirements;

(f) calling on the Member States and the Commission to officially adopt the new term 'ECTS': Environmental Carcinogenic Tobacco Smoke, in place of 'ETS'; and

(g) framing education policies (DG EAC and DG SANCO), applicable to all education systems across the EU, to ensure that children and young people are correctly, fully and regularly informed of the effects of smoking and ETS.

1.4. **With regard to Article 4** of the section on recommendations to the Member States

1.4.1. Reference should be made at the end of the paragraph to 'protection from tobacco smoke in public settings frequented by children and young people' (open air playgrounds for children, leisure venues, open-air or indoor discos, clubs, bars frequented by children or young people under 18, and other such places).

1.5. **With regard to Article 6** of the section on recommendations to the Member States

1.5.1. The definition of national focal points for tobacco control should include the phrase 'and for controlling/eliminating public ETS exposure'.

2. Conclusions

2.1. The Committee supports the Commission's initiative to ensure effective EU implementation of Article 8 of the FCTC – aimed at creating a 100 % smoke-free environment – in accordance with Principle 1 of the Guidelines for implementation of Article 8, set out in point 6 of the annex to COM(2009) 328 [1]. While the Committee thinks that the EU recommendation is a useful instrument for this purpose, it does not provide many guarantees. Should its implementation and effectiveness prove inadequate, the Commission should propose a binding instrument as quickly as possible.

2.2. The Committee believes that research needs to be carried out at EU level into combating the harmful effects of smoking on children and young people and into their degree of exposure to ETS. With a view to devising effective future strategies and programmes, smokers should be surveyed in order to find out the age at which they had their first cigarette and their reasons for starting smoking as children or young people.

2.3. Given that the European Parliament has called on the Member States to commit to reducing smoking among young people by at least 50 % by 2025, the Committee would advocate quantifying the tangible harmful effects of smoking on young people, in order to draw up further EU objectives for the Member States towards this end. It should be pointed out that the Committee does not wish to imply that the anti-tobacco measures be prolonged until 2025. On the contrary, it would advocate speeding up these measures, given the serious implications for human health and the huge costs involved.

2.4. The Committee stresses the vital need to ban smoking and thus ETS exposure in places frequented by children and young people (0-18 age group) including leisure venues, such as clubs, indoor discos, bars, sports grounds, children's leisure facilities, etc. This measure could save some of the current generation of 15-18 year-olds who are the most exposed to the risk of smoking and ETS. It is generally between the ages of 15 and 18 that some will choose to smoke their first cigarette and go from passive to active smokers.

2.5. The Committee considers educational programmes essential at primary and secondary school levels, aimed at promoting healthy, harmonious lifestyles. At EU level, children and young people should have access to regular, accurate and complete information on tobacco consumption and ETS exposure, so as to be aware of all the related risks and to be able to make an informed, responsible choice. This information could also be provided in partnership with NGOs; what is important is that the information is accessible, regular, tailored to the motivations of children and young people, interactive and innovative, so as to enable children to take responsibility for themselves, freely and in full knowledge of the facts.

2.6. The Committee advocates information and education campaigns on healthy lifestyles, designed for all age groups and sections of society, to enable people to take responsibility for their own choices in full knowledge of the consequences for both themselves and, where relevant, their children.

2.7. The Committee encourages the policies promoted by NGOs and civil society and their involvement in actions to protect against exposure to smoking and ETS, particularly aimed at disadvantaged members of society who risk losing not only their social independence but also their personal independence by damaging their health and gradually losing vital functions. There should be special protection against ETS exposure for disadvantaged children living in environments with high exposure to second-hand smoke, as well as for street-dwelling children, young people and other groups.

3. Background and general comments

3.1. *Medical and social arguments on smoking and ETS exposure levels*

3.1.1. Research has shown that every cigarette you smoke takes eight minutes off your life [2]. Tobacco is the single largest cause of avoidable death, disease and disability in the EU, claiming around 650 000 lives each year [3].

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[1] 'Effective measures to provide protection from exposure to tobacco smoke, as envisioned by Article 8 of the WHO Framework Convention, require the total elimination of smoking and tobacco smoke in a particular space or environment in order to create a 100 % smoke free environment. There is no safe level of exposure to tobacco smoke, and notions such as a threshold value for toxicity from second-hand smoke should be rejected, as they are contradicted by scientific evidence' (COM(2009) 328 final/Annex/Principle 1, p. 11).

[2] Smoking, Soros Foundation, 888 Seventh Avenue, NY 10106, 1992.

[3] *Tobacco or health in the European Union: Past, present and future*, ASPECT Consortium, October 2004.

3.1.2. Tobacco smoke is a complex toxic mixture of more than 4 000 substances, including poisons such as hydrogen cyanide, ammonia and carbon monoxide, as well as over 50 substances (69 in total ([4])) proven to be carcinogenic; smoking is thus a widespread source of mortality and morbidity in the EU. There is a valid scientific basis for adopting the new term 'Environmental Carcinogenic Tobacco Smoke' – ECTS – in place of 'ETS'.

3.1.3. Chronic exposure to second-hand smoke has been established as a cause of many of the same diseases also caused by active smoking, including lung cancer, cardiovascular disease, and childhood disease.

3.1.4. Exposure to ETS may cause coronary heart disease and lung cancer in adults. It may cause stroke, asthma and chronic obstructive pulmonary disease (COPD) in adults ([5]) and worsen pre-existing conditions such as asthma and COPD ([6]).

3.1.5. Research and definitions regarding the risks of exposure to ETS have evolved over time. Terms such as *passive smoking* and *involuntary exposure to tobacco smoke* should be avoided, as experience in France and elsewhere suggests instances in which these terms may be used to support a position whereby exposure to tobacco smoke is *voluntary* and thus acceptable. In line with the new scientific context, the term 'ETS' should be replaced by the term 'ECTS' (Environmental Carcinogenic Tobacco Smoke).

3.1.6. ETS is particularly harmful to children, causing asthma, pneumonia and bronchitis, respiratory symptoms, middle ear infections, and sudden infant death syndrome ([5]).

3.1.7. According to conservative estimates, 7 300 adults, including 2 800 non-smokers, died as a result of ETS exposure at their workplace in the EU-25 in 2002. The deaths of a further 72 000 people, including 16 400 non-smokers, were caused by ETS exposure at home ([7]).

3.1.8. Exposure to tobacco smoke generally or in the workplace is proven to substantially increase the risk of lung cancer, and employees of catering establishments in which smoking is permitted are, for instance, 50 % ([8]) more likely to develop lung cancer than employees not exposed to tobacco smoke.

3.1.9. Exposure to tobacco smoke during pregnancy can result in a higher risk of deformities, miscarriages, still and premature births.

3.2. *Eurobarometer-based sociological arguments regarding anti-smoking and ETS-exposure policies*

3.2.1. According to the recent Eurobarometer survey on the *Attitudes of Europeans towards tobacco*, smoke-free policies are popular among the European public, with 84 % in favour of a ban on smoking in offices and other enclosed workplaces, 77 % in favour of banning smoking in restaurants and 61 % in favour of smoke-free bars and venues.

3.2.2. Nearly 70 % of EU citizens do not smoke ([9]), and studies show that the majority of smokers want to give up ([10]).

3.2.3. The Eurobarometer survey found that three quarters of Europeans were aware that tobacco smoke represents a health risk for non-smokers, while 95 % acknowledged that smoking in the company of a pregnant woman can be very dangerous for the baby.

3.2.4. At the end of 2006, it was estimated that 28 % of EU office workers were exposed to ETS on a daily basis at their workplace, while some 39 % of bar and restaurant staff were exposed at the end of 2008. Another recent study (2006) found that approximately 7,5 million European workers were exposed to ETS in the workplace ([11]).

3.2.5. Tobacco consumption costs European economies hundreds of billions in health costs annually. These costs are borne by the whole population and not merely by those responsible for generating them. Across the EU-27, the cost of workplace ETS exposure alone has been estimated at EUR 2.46 billion per year ([12]): EUR 1.3 billion in medical expenditure on tobacco-related diseases (including EUR 560 million for non-smoking staff) and over EUR 1.1 billion in non-medical costs linked to productivity losses (including EUR 480 million for non-smokers).

3.3. *The duty to protect the public from ETS exposure derives from the need to uphold fundamental human rights and freedoms (right to life and health standards)*

3.3.1. The duty to protect people from tobacco smoke, embodied in the text of Article 8 of the WHO Framework Convention on Tobacco Control (FCTC), is grounded in fundamental human rights and freedoms. Given the dangers of breathing second-hand tobacco smoke, the duty to protect from tobacco smoke is implicit in, inter alia, the right to life and the right to the highest attainable standard of health, as recognised in many international

(4) Rand Impact Assessment, RAND Corporation.

(5) Surgeon General (2006). *op. cit.*

(6) Foreman, M. G., D. L. DeMeo, et al. 'Clinical determinants of exacerbations in severe, early-onset COPD', *European Respiratory Journal* 30(6): 1124-1130.

(7) The Smoke free Partnership (2006). *Lifting the smokescreen: 10 reasons for a smoke free Europe*, European Respiratory Society, Brussels, Belgium.

(8) Siegel M. 'Involuntary smoking in the restaurant workplace. A review of employee exposure and health effects'. *JAMA*, 28 July 1993, 270(4):490-3.

(9) The European Community Health Indicator no 23, 'Regular Smokers': http://europa.eu.int/comm/health/ph_information/dissemination/echi/echi_en.htm.

(10) Fong GT, Hammond D, Laux FL, Zanna MP, Cummings KM, Borland R, Ross H. 'The near-universal experience of regret among smokers in four countries: findings from the International Tobacco Control Policy Evaluation Survey'. *Nicotine Tob Res.* 2004 Dec; 6 Suppl 3:S341-51.

(11) Jaakkola M., Jaakkola J. (2006) 'Impact of smoke-free workplace legislation on exposure and health: possibilities for prevention'. *Eur Respir J*; 28: 397-408.

(12) SEC(2009) 895 p. 3, paragraph 2.1.2.

legal instruments (including the Constitution of the World Health Organisation, the Convention on the Rights of the Child, the Convention on the Elimination of all Forms of Discrimination against Women and the Covenant on Economic, Social and Cultural Rights), as formally incorporated into the preamble of the WHO Framework Convention and as recognised in the constitutions of many nations.

3.3.2. The duty to protect individuals from tobacco smoke corresponds to an obligation on governments to enact legislation to protect individuals against threats to their fundamental rights and freedoms. This obligation extends to all persons, and not merely to certain populations.

3.4. *International and European context*

3.4.1. Environmental tobacco smoke was classified as a human carcinogen by the US Environmental Protection Agency in 1993, by the US Department of Health and Human Services in 2000 and by the WHO International Agency for Research on Cancer in 2002.

3.4.2. At international level, the WHO FCTC, signed by 168 and ratified by 141 parties, including the Community, 'recognises that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability'. The Convention obliges the Community and its Member States to tackle exposure to tobacco smoke in indoor workplaces, public transport and indoor public places. Under Article 8, the parties are obliged to provide protection from exposure to tobacco smoke.

3.4.3. According to the 2004 WHO European strategy for smoking cessation policy, intensive counselling of more than 10 minutes by a physician has the highest success rate of achieving long-term abstinence.

3.5. *Impact analysis on the most favourable of the five EU policy options*

3.5.1. On 30 January 2007 the Commission opened a public debate on the issue by publishing a Green Paper entitled *Towards a Europe free from tobacco smoke: policy options at EU level* (COM(2007) 27 final). The five EU policy options are: 1) no change from the status quo; 2) voluntary measures; 3) open method of coordination; 4) Commission or Council recommendation; and 5) binding legislation.

3.5.2. In the impact analysis, the Commission points out that given its mandatory nature, policy option 5 (binding legislation) would be the most effective in reducing the harm caused by environmental tobacco smoke, given that ETS exposure would in fact be eliminated in all enclosed workplaces. However, implementation would take longer than in the case of option 4 (Council recommendation). Policy option 1 (no change from the status quo) would have the least impact on reducing ETS levels and the associated damage to health. The current anti-smoking trend is expected to continue, but at a slower pace. Options 2 and 3 would have similar effects and bring about only a modest reduction in ETS in comparison with option 1 (status quo). Option 3 (implementing the open method of coordination) could be slow and unsuited to dealing with a problem such as ETS. The impact of option 4 (a Commission recommendation) would be limited in that it might fail to create a sense of obligation among the Member States. It is expected that option 4 would have greater health benefits given the ownership effect, and that its impact would be felt relatively quickly.

4. The most vulnerable target groups exposed to environmental tobacco smoke and strategies to resolve this problem

4.1. The most vulnerable groups exposed to tobacco smoke are: children, young people, the unemployed, the disadvantaged and workers in the hospitality industry.

4.2. In causal terms, the problem of ETS exposure should be dealt with in conjunction with tobacco consumption and with the specific nature of the target group. 80 % of EU smokers have admitted to smoking at home. Strategies aimed at reducing smoking and ETS exposure should particularly target children, young people and parents.

4.3. Some 31 % of EU citizens aged 15 and over say they smoke (26 % smoke daily and 5 % occasionally ([13])). The rate of smoking among children accelerates very rapidly from 11 years of age. The very high levels of smoking reported prior to reaching 18 years would support the idea that smoking behaviour is induced while smokers are still under age ([14]). Eurobarometer makes no reference to the first cigarette smoked. However, certain countries' national statistics ([15]) have shown that most people started smoking in their childhood: 53 % (5,5 % smoked their first cigarette before the age of 15, 47,5 % between the ages of 15-19). More than half of the male smokers (51,4 %) took up smoking between the ages of 15-19. One section of the most vulnerable social group – street children – smoked their first cigarette before the age of 5 ([16]). Street life, especially for disadvantaged children, young people and adults, is associated with a high degree of tobacco consumption and ETS exposure.

([13]) Eurobarometer 253, March 2009, *Survey on tobacco*, conducted by The Gallup Organisation, Hungary, p. 7, paragraph 1.

([14]) Tobacco Free Policy Review Group, (2000), *Towards a tobacco free society: report of the Tobacco Free Policy Review Group*. Government Publication. Stationery Office, Dublin, http://www.drugsandalcohol.ie/5337/, p. 29, paragraph 1.

([15]) Romania, National statistics institute

([16]) *Terapii Asociate pentru Integrarea Copiilor Strazii* [Associated therapies for integrating street children], Eugen Lucan, degree research, 1996.

4.4. ETS concentrations are particularly high and dangerous in leisure venues (clubs, bars, open-air and indoor discos, etc.) both for the customers (certain categories of young people, etc.) and the staff (hospitality workers). A four-hour exposure in a discotheque is similar to that from living with a smoker for a month ([17]).

4.5. In addition to media awareness strategies, there is a need, first and foremost, for preventative educational strategies. NGOs have promoted innovative information, education and prevention services aimed at children and young people in respect of the risks of smoking and smoke exposure. At EU level, one possible solution would be to standardise these good practices by introducing educational programmes into the learning system, as well as providing counselling services through the European network of citizens' advice bureaux or school advice centres for parents and children. Community clubs for children and parents, and educational programmes along the lines of a 'school' or 'university' for parents constitute examples of good practice that could help in the drive to prevent smoking and smoke-exposure both at school and, particularly, in the home, where EU legislation respects people's private lives.

5. Positive, fully informative media campaigns to promote health will naturally reduce smoking and ETS exposure

5.1. At EU level, two anti-tobacco media campaigns – *Feel free to say no* (2001-2004) and HELP: *For a life without tobacco* (2005-2008) – have aimed at highlighting the hazards of passive smoking and at promoting tobacco-free lifestyles, particularly among young people.

5.2. With regard to amending Commission Decision 2003/641/EC of 5 September 2003, the Committee considers that all warnings should also clearly detail the contents of the cigarette and the nature of the carcinogens and toxins therein, particularly the preservatives and other ingredients, and should include contact details to help smokers quit, such as a relevant free phone number or website.

5.3. Although 80 % of the EU smokers or ex-smokers remembered an anti-tobacco campaign, 68 % of them declared that such campaigns had not made them want to give up smoking ([18]). The Committee advocates media information and awareness campaigns based on the following principles:

— highlighting breathing as a vital human function and the intrinsic link between the quality of the air that we breathe and our quality of life (we are what we breathe!);

— promoting accurate and complete information;

— deploying the principle of positive suggestion – by focusing on creating healthy lifestyles, smoking and smoky environments will be forgotten;

— tailoring the message to the individual target groups, focusing on the specific motivations of the various age groups (e.g. in the case of young people, performance and self-image);

— encouraging and promoting certain sporting, educational and cultural approaches which by definition exclude tobacco consumption: performance sport (swimming, football, cycling, handball, etc.), training methods, self-defence and/or self-awareness (karate, tai-chi, yoga ([19]), qigong, etc.) as well as philosophies that exclude smoking. ETS exposure levels in public places used for such activities must continue to move towards 0 %; and

— through the media, promoting as role models certain sporting, cultural or political personalities who lead a balanced life and are non-smokers.

Brussels, 5 November 2009.

The President
of the European Economic and Social Committee
Mario SEPI

([17]) SK. Environmental tobacco smoke exposure in public places of European cities. Tob Control. 2005 Feb; 14(1):60-3.

([18]) Eurobarometer 239/2005, January 2006, p. 58-59.

([19]) A survey published on the Internet found that of the 37 % of respondents who were smokers before taking up yoga, all of them had since given up. Moreover, none of the respondents took drugs – http://yogaesoteric.net/content.aspx?item=3869&lang=EN.