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WHO

REGIONAL OFFICE FOR EUROPE

LEGAL INSTRUMENTS FOR ENVIRONMENTAL HEALTH MANAGEMENT

Report on a WHO Meeting

Marseilles, France
14-16 April 1997

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1997

EUR/HFA target 18

TARGET 18

POLICY ON ENVIRONMENT AND HEALTH

By the year 2000, all Member States should have developed, and be implementing, policies on the environment and health that ensure ecologically sustainable development, effective prevention and control of environmental health risks and equitable access to healthy environments.

ABSTRACT

At a WHO consultation in 1996, senior government officials agreed that there was an urgent need to improve the range of policy tools for preventing and controlling environmental health hazards, and requested that WHO provide a guidance document on legal instruments for environmental health management. This document would be the sixth in a series aimed at strengthening various aspects of the environmental health services in Member States of the WHO European Region. At a meeting in Marseilles in 1997, the WHO Regional Office for Europe gathered together several experts to determine the steps necessary to produce the guidance document. The participants agreed on the target audience, scope and purpose, chapter headings and subheadings, and timetable for completing the document. They also agreed that this project was important in aiding Member States to develop their environmental health services and national environmental health action plans.

Keywords

ENVIRONMENTAL HEALTH – legislation and jurisprudence
HEALTH SERVICES – trends
EUROPE

Background

The Declaration and Action Plan adopted at the Second European Conference on Environment and Health, which was held in Helsinki in June 1994, provides a wide framework of measures for the improvement in environmental health in the European Region. The aim of the Environmental Health Action Plan for Europe is "to develop at national, sub-national and regional levels, appropriate environmental health services and the necessary supporting mechanisms to implement policies to control, prevent and correct environmental factors with adverse effect on health and where appropriate to promote which enhance human health and well-being".

Control measures form an intrinsic part of the Environmental Health Action Plan for Europe and this plan outlined certain aspects for successful control measures, "the most effective are those most suited to particular circumstances; there must be new approaches to implementation and enforcement of control measures and there must be flexibility in the use of control measures".

At the Second Consultation of Senior Government Officials on the Development of National Environmental Health Action Plans (Dubrovnik 1996), it was agreed that there was an urgent need to improve the range of policy tools for preventing and controlling environmental health hazards. The Member States requested WHO to provide them with a guidance document on legal instruments for environmental health management, which would form the sixth of a series of documents aimed at strengthening various aspects of the environmental health services in Member States.

Meeting to review the guidance document

The WHO Regional Office for Europe convened a meeting on 14 and 15 April 1997 to determine the scope and purpose of the guidance document, the target audiences and the content and to identify possible partners. The meeting took place at the Direction régionale des affaires sanitaires et sociales in Marseilles, France (see Annex 1 for participants).

The Meeting was opened with a general outline of its purpose, followed by presentations on WHO, environmental health, the guidance document, and the discussion paper and progress to date. During the meeting, participants made decisions in the areas set out below.

Scope and purpose

It was agreed that the final document should be a stand alone document which should provide guidance and options to Member States to strengthen the legal basis on which the environmental health services operate. It was further agreed that continuous referencing to the other documents in the series was likely.

Target audience

There was a consensus that those groups in the best position to bring about, influence and lobby for change would be considered as the primary target audience. Participants agreed that many different groups met the specified criteria but that too wide a target audience would inhibit the document's success. The guidance document should therefore be primarily aimed at government and official level but should be written in such a way as not to exclude consumer, business and other groups.

Primary target groups: National and local governments
National and local government environmental health services officials
Participants in the London conference 1999

Secondary target groups: Environmental health stakeholder groups
Consumer groups
Business groups
International organizations

Contents

The following chapter and sub-chapter headings were deemed necessary.

1. *Objectives of and background to the document*

- (i) Requested by Member States
- (ii) Dubrovnik
- (iii) To aid in bringing about change
- (iv) To provide options for change
- (v) Stand alone document

2. *The environmental health movement in Europe*

- (i) What environmental health is
- (ii) Where environmental health came from
- (iii) An overview of the European environmental health movement

3. *Principles on which environmental health law is based*

- A. Human rights and the environment
- B. Public health principles
 - (i) Equity
 - (ii) Intersectorality
 - (iii) Health promotion and environmental health promotion
 - (iv) International cooperation
 - (v) Subsidiarity
 - (vi) Sustainable development
 - (vii) Community participation
- C. Environmental principles
 - (i) Prevention principle
 - (ii) Precautionary principle
 - (iii) "Polluter pays" principle
 - (iv) Public participation
 - (v) Cooperation
 - (vi) Integrated approach
 - (vii) Conservation
 - (viii) Source principle
 - (ix) Substitute principle
 - (x) Best available technology
- D. The commonality between B and C
- E. Case studies and illustrations

4. *International instruments for environmental health*

- A. Binding and non-binding aspects of international instruments
- B. Advantages and disadvantages of international instruments
- C. The use of international instruments in international cooperation
- D. Changes brought about by some of the more important instruments
- E. The use of national law and the associated states commitment to EU approximation

5. *National instruments*

- A. Constitutions
- B. Case law
- C. Acts of Parliament
- D. Statutory laws
- E. Orders (national, regional, local)
- F. Instructions
- G. Standards (ISO, etc.)
- H. Recommendations/guidelines
- I. Codes of practice
- J. Voluntary agreements

6. *Environmental health control measures*

- A. Administrative measures available to national and local governments:
 - (i) Environmental health impact assessment
 - (ii) Licensing/authorization/permits/declarations
 - (iii) Accreditation or homologation
 - (iv) Prohibition/ban on trading
 - (v) Suspension/limitation of activities
 - (vi) Fines
 - (vii) Fees
 - (viii) Taxation
 - (ix) Financial instruments/incentives
- B. Determination of level of prescription:
 - (i) Risk assessment
 - (ii) Risk management
 - (iii) Risk communication
- C. Independent measures available:
 - (i) Judicial review
 - (ii) Criminal sanctions
 - (iii) Civil liability
 - (iv) Contracts
 - (v) Access to information
 - (vi) Environmental management
 - (vii) Audit schemes
 - (viii) Voluntary agreements
 - (ix) Codes of conduct
 - (x) Ethical behaviour

7. *Preconditions for success*

- (i) Establishment of policy
- (ii) Determination of priorities
- (iii) Assessment of advantages and disadvantages of alternatives
- (iv) Identification of all affected parties
- (v) Consultation and participation of all affected parties/ownership
- (vi) Transparency of process
- (vii) Response to actual need and feasibility
- (viii) Public education
- (ix) Consolidation and consistency
- (x) Selection of most appropriate measures
- (xi) Assessment of levels of action – who should take action and how it should be taken
- (xii) Readability
- (xiii) Training of concerned groups
- (xiv) Dissemination of information (public, consumer groups and business)

8. *The European Union and environmental health law*

- A. The specific role of the EU in environmental health
- B. Analysis of the Maastricht Treaty to determine EU competence in environmental health
- C. The EU directorates-general involved in environmental health
- D. The role of the United Nations in the context of EU environmental health policy
- E. The implementation and enforcement of EU legislation

9. *Liability for environmental health damage*

- A. Advantages and disadvantages of a liability regime
- B. The Lugano Convention
- C. EU liability proposals
- D. Other liability regimes
- E. Options available
- F. Access to the courts

10. *Enforcement*

- A. Level of instrument and level of action
- B. Administrative organization
- C. Quality assurance for enforcement authorities
- D. Alternative dispute resolution
- E. Deregulation

11. *Conclusion and recommendations*

Partners

There was a general discussion on the types of partner who may be required for the duration of the project and also on the resources and partners presently available. The following resources were identified as being available immediately:

- (i) use of research facilities at WHO headquarters, Geneva;
- (ii) an Irish regional health authority may fund a research assistant for a short time;

- (iii) Hungarian law students are available for research;
- (iv) various people may be in a unique position to aid in the production and review of the final document.

Timetable

Participants decided that the following timetable was realistic and could be used to evaluate the progress of the of the project:

- January 1998: first draft, i.e. three to four completed chapters and a detailed table of contents for the remainder, to be ready for review
- July 1998: second draft to be ready
- September 1998: final review
- January 1999: final draft completed.

RECOMMENDATION

Participants recommended that the working group should meet again towards the end of 1997 or at the beginning of 1998 to review the content and evaluate the progress of the document.

Annex 1

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