

EU Global Health Law

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Introduction EU Law, Human Rights, and Public Health

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Outline 1: EU Law

History

Institutions

Sources of Law

EU Human Rights

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1. History: from Enlargement to Brexit



http://europa.eu/publications/slide-presentations/index_en.htm

Erasmus

The treaties – basis for democratic cooperation built on law



1952

The European Coal and Steel Community

1958

The treaties of Rome:

- The European Economic Community
- The European Atomic Energy Community (EURATOM)

1987

The European Single Act: the Single Market

1993

Treaty on European Union - Maastricht

1999

Treaty of Amsterdam

2003

Treaty of Nice

2009

Treaty of Lisbon

Achievements

Single European Market: 4 Freedoms

‘Schengen’

Common Foreign policy

Euro

Improving health and environment: Health Actions

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2. Institutions (selected)

European Parliament

European Commission

Council

Court of Justice of the EU

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3. Sources of law

Primary law:

- Treaties
- Charter on Human Rights

Secondary law:

- Regulations
- Directives
- Decisions
- CJEU rulings

4. Fundamental Rights and Principles

- Internal market: free movement of goods, persons, services, capital
restrictions
- Proportionality
- Non discrimination principle
- Principle of subsidiarity

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Health and Fundamental Rights in the EU

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Outline

- Fundamental Rights and EU Law
- EU HR Charter
- Conclusions

Fundamental Rights in EU Treaties and EU Human Rights Charter

- Art. 2 TEU: respect for fundamental rights
- Art. 6 amendments Treaty of Lisbon:
 - Recognition Charter rights, Charter on Fundamental HRs
 - towards accession ECHR
 - ECHR's rights recognised as principles of law
- EU Charter rights:
 - Content: Innovative approach
 - Discriminatory approach: Art. 52(5) 'principles' incapable creating directly enforceable rights
 - General limitations clause: Art 51(1)
 - Polish/UK Protocol: Substantive Opt-out?
 - Art 52(3): 'materially incorporates the ECHR' into EU law

Fundamental Health Rights and EU law

- Privacy Directive 95/46/EC & General Data Protection Regulation
- 'Fertility tourism' and free movement
- Patient Mobility Directive
- Clinical Trials Regulation and informed consent
- Protecting Biotechnological innovations and Human Dignity
 - *Brüstle v Greenpeace* (C-34/10)
 - *International Stem Cell Corporation v Comptroller General of Patents* (C-364/13)

References EU Charter Fundamental Rights and Health

- Art. 35 Health Care
 - CJEU C-544/10 *Deutsches Weintor* par 48-53
 - ECJ C-84/11, *Susisalo*, para 37
 - ECJ C-444/05 / Opinion AG - *Stamatelaki v NPDD* , para 65.70
 - ECJ C-570/07, C-571/07 / Opinion AG - *Blanco Pérez*
 - ECJ C-528/13 *Léger v Ministre des Affaires sociales*
- Art. 17: Freedom of establishment. Case C-367/12 *SokollSeebacher*
- Art. 34 Social Security

Conclusions

- EU's compliance with human rights: Myth or Reality?
- Charter contributes to constitutional legitimacy EU
- CJEU: integrated HR in EU legal order
- Future Challenges

EU Public Health Law: A Legal/Policy 'Patchwork'*

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Outline

- EU's competence in Public Health
- EU Health Protection and Health threats: ECDC
- EU Public Health Policy Actions
- Conclusions

EU Public Health: Historical Background

- Rome Treaty 1958: restrictions on import/export
- Euratom Treaty 1956: protection for the effect of radiation
- Single European Act 1986: Art 100A(3)
- 1992 Maastricht Treaty: Art. 129 Public health protection
- 1996 - BSE emerges
- 1997 Treaty of Amsterdam
- EU-WHO Memorandum (2000) and Enlargement
- EUCFR 2009: Article 35

1. EU's Competence in Public Health

- Treaty on the Functioning of the European Union (TFEU):
 - Protection of public health, Article 168
 - * Division of powers
 - * Commission coordinates and initiates (s. 2)
 - * Cooperation 3rd parties
 - * Limited powers blood, tissues, cells, organs, tobacco, cb health threats
 - * Subsidiarity principle (s.7)
 - Article 114 (approximation of laws)
 - Article 169 (consumer protection)
 - Restrictions on Free movement of goods and persons

EU PH: Ensuring the safety and quality of donated blood, tissue, cells and organs

- The 'Blood Directive' 2002/98/EC (and implementing directives)
 - voluntary and unpaid donations, Art. 20
- The 'Organ Directive' 2010/53/EU on standards of quality and safety of human organs; Action Plans
 - case study Organ Action Plan (seminar)
- The 'Tissues and Cells' Directive 2004/23/EC
 - ensuring traceability cells, tissues

2. EU Health Protection and Health Threats

- 'Mushrooming' of Agencies
- New mode of governance approach
- Reg. 851/2004/EC: Protecting citizens from health threats
 - Establishing a European centre for disease prevention and control (ECDC)
 - Mission: surveillance, identifying and responding (emerging) health threats
 - Integrating Early Warning and Response System (EWRS Decision 2000/57/EC)

ECDC Developments

- Decision 1082/2013: public health emergency under International Health Regulations (2007)
- New Outbreaks: Ebola, Zika; What's the response of the EU?:

<http://europa.eu/!dU66vD>

- ECDC Rapid Risk Assessment (Zika virus, January 2016)
- Health Security Committee activities: Refugees; H1N1 pandemic; shortage radio isotopes medical use (Global health lecture)

3. EU Public Health Policy (1): Health Action on Health Determinants

- Tobacco
- Nutrition and physical activity
- Alcohol and drugs
- Mental health
- Environment and health
- Social determinants and health inequalities

EU Public Health Policy (2): EU Disease Prevention

- Cancer
- Mental disorders, Alzheimers
- Cardiovascular disease
- Rare diseases

4. Conclusions

- Europeanization of public health
- Subsidiarity principle blocking further integration
- Legal/Policy Patchwork