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Disparate laws hinder pandemic plans in Europe

Plans “lack legal underpinning” in some member states, study finds



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Public health laws differ significantly between European countries, and this jeopardises how coherently the region can respond to disease pandemics, according to the results of a three-year research project **presented today** at the European Parliament in Brussels, Belgium.

Although pandemic plans lay down specific response measures informed by scientific evidence, the authors found that they are not always in agreement with national laws. This means that some countries may opt to take action only where it's authorised by existing laws, while others go into 'emergency mode', overriding legal obstacles.

Even if all countries only took action that didn't contradict their laws, the mix of measures authorised would differ from country to country, according to the authors, led by Robyn Martin of the University of Hertfordshire, UK.

“These differences could create problems for European strategies if an evolving influenza pandemic results in more serious public health challenges or, indeed, if a novel disease other than influenza emerges with pandemic potential,” they write in an article published online this month in *BMC Public Health*.

Closing borders, using unlicensed drugs, assigning priority access to vaccines and drugs, or providing health care to people not living in a particular country are examples of response measures that would be sensitive to national laws.

Martin and colleagues point out that Europe's capacity to respond to pandemics was bolstered in light of the threat of H5N1 bird flu and the 2003 outbreak of SARS. Recently it was tested with the emergence of the H1N1 'swine flu' virus. But legal aspects of pandemic response have received little attention, they say.

In a **project** co-funded by the European Union (EU), the team set out to analyse differences in public health laws with a survey of 32 European member states. They put more than 100 questions to experts, asking them about preparedness and response interventions based on an imaginary pandemic flu outbreak. These experts were also involved in workshops that built on the information gathered through the survey by analysing differences between legal systems in different countries, and how they might affect pandemic response in the region.

“In some states plans have for all practical purposes the status of law, and in others plans have no legal authority,” write the authors. “Interventions proposed in some plans lack legal underpinning.”

The experts grappled with a series of differences between countries, for example whether laws were designed specifically for influenza or pandemics, and whether they applied to regions or at the national level.

Examples of inconsistencies are noted in the report. Countries have different requirements for notifying cases of influenza, mandating screening and medical tests, or providing non-citizens with access to health care. The region is also missing a unified approach to controlling the movement of people across borders in an emergency.

Lack of clarity about who is responsible for managing disease control activities was a common theme running through workshop discussions, say Martin and colleagues. “Only in two states were lines of command thought to be clear, coordinated and detailed.”

They also noted that because pandemic plans have no input from professionals with legal expertise, in some states there are large discrepancies between plans, laws, and the requirements of the International Health Regulations (IHR). “This suggests an urgent need for improved training in public health law in both the law and healthcare sectors.”

Some laws dated from the 19th century, write the authors. “In some cases attempts have been made to amend laws in recognition of IHR obligations and pandemic planning, without addressing the outdated science and jurisprudence that underlay old legislation.”

Martin and colleagues also draw attention to the capacity of some countries to assume emergency powers in a pandemic. “[This] is significant in that emergency powers may allow for greater intervention, with possible derogation from the European Convention on Human Rights.”

Most experts who took part in the workshop called for more guidance by the EU, saying it should become more involved in pandemic disease management.

Reference and links

1. Martin R, Conseil A, Longstaff A, Kodo J, Siegert J, Duguet AM, *et al.* Pandemic influenza control in Europe and the constraints resulting from incoherent public health laws. *BMC Public Health* 2010, **10**:532. doi: [10.1186/1471-2458-10-532](https://doi.org/10.1186/1471-2458-10-532)

[European Commission information](#) on influenza pandemic preparedness planning at EU level

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