

Dear Sir,

As an Austrian national I welcome the European Commission's efforts to bring about a smoke-free Europe. The main reason why initiatives at European level are likely to prove successful in Austria is the unsatisfactory legal protection afforded non-smokers by Austrian legislation. The "Tobacco Act" (or, to give it its full title, the "Federal Act on the production and marketing of tobacco products, the advertising of tobacco products and the protection of non-smokers", BGBl. No 431/1995) stipulates that smoking is banned in public places (other than premises in which food is served) and that signs to this effect must be put up. If the relevant signs are not put up, fines are threatened. However, no provision is made for fines if people ignore the smoking bans in public places. As a result, people regularly ignore the smoking bans in force in public buildings, since smokers and building owners are threatened with fines only if the signs are in place.

The Austrian catering industry is currently exempt from all restrictions, though last year (2006) it did attempt to introduce a "voluntary commitment scheme" (at least 40% non-smoking places in establishments where food is served). This initiative by the catering industry was evaluated by the Austrian Ministry of Health in the spring of 2007, which established that a mere 40 to 50% of all food establishments had introduced no-smoking areas (many of these were set up in view of the forthcoming evaluation, or else were managed very loosely). Voluntary restrictions can therefore officially be deemed to have failed in Austria (as indeed the European Commission predicted would probably happen with voluntary commitment schemes in its Green Paper). Although Andrea Kdolsky, the Austrian Minister for Health, has announced that smoking in food establishments will be legally regulated, this will not really improve the situation, and indeed in many cases might make things worse for non-smokers:

Under the plans, establishments larger than 75 m² must either create separate areas for smokers or install ventilation systems. The latter is open to very broad interpretation and would not really help non-smokers. Establishments under 75 m² will in future be able to decide whether they wish to be smoking or non-smoking. On this matter, the Commission's Green Paper (page 21 of the German version), citing the example of Paris, points out that in Paris, the voluntary scheme that was designed to encourage the city's 12 452 cafés, bistros and brasseries to become "smoke-free zones" of their own accord was complied with by just 30 establishments" A similar state of affairs could be expected in Austria, and because the "smoking establishments" would no longer have the voluntary restriction (40% non-smoking places), this would make the situation drastically worse for non-smokers and staff.

Given the sometimes slow and cumbersome nature of the Austrian legislature, which so often tries to make things right for everyone but ultimately does nobody any good, I would welcome a clearly regulated European-level smoking ban in public places based on the Irish model, particularly since passive smoking is clearly known to pose a serious health risk, something that is not lost on Austria or the Austrian Ministry of Health.

Yours faithfully,

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