

Clinical Trials

During the first half of 2010 there have been various regulatory developments for clinical trials. Below is a summary by country:

Latvia

On 23 March 2010, the Latvian government enacted a Regulation n°289 called "*Regulations on Conducting Clinical Trials and Non-interventional studies and Labelling of Investigational Medicinal Products, and Procedure for Conducting Inspections on Compliance with the Requirements of Good Clinical Practice*".

This Regulation is intended to determine the procedure for the conduct of clinical trials, including multicentre trials, on medicinal products for human use in accordance with good clinical practice, procedure for the conduct of non-interventional studies and for labelling investigational medicinal products, and procedure for verifying the compliance of clinical trials with good clinical practice.

Article 22 of this Regulation states: "*The sponsor shall ensure that provisions have been made for insurance and indemnity to cover the liability of the investigator and sponsor. The sponsor is not responsible for a deliberate or accidental injury to a subject caused by the investigator or other individuals involved in the clinical trial.*"

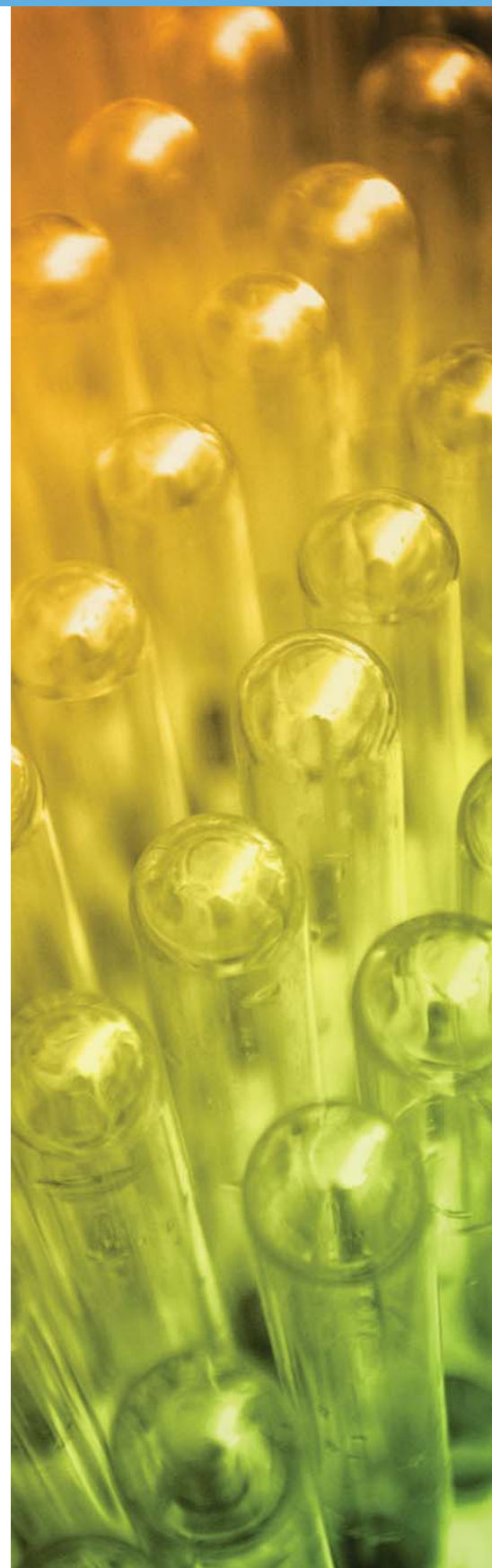
Portugal

On 12 March 2010, the Portuguese government enacted a decree ("*Deliberação*") n°514/2010 that reminds in particular of the obligation to produce insurance certificate related to the sponsor and/or the investigator.

Spain

On 20 May 2010, the Spanish Drugs Agency published a notice of information "*Nuevo Procedimiento Para La Evaluacion Coordina De Ensayos Clinicos Por Las Agencias De medicamentos Europeas.*"

This notice is to prepare the implementation of the "Guidance document for a Voluntary Harmonisation Procedure (VHP) for the assessment of multinational Clinical Trial Applications" published by the clinical trials facilitation group (CTFG).



European regulation

At the end of 2009, under the auspices of a review of the Clinical Trials Directive 2001/20/EC, the Commission ran a public consultation to assess the functioning of the said Directive seeking comments and responses to a range of questions.

In February 2010, the European Commission published a summary of responses to the consultation in a document called "*Assessment of the functioning of the Clinical Trials Directive 2001/20/EC*" so that the Commission will now make an evaluation before considering any changes that should be made to the Directive.

As a general evaluation of the document, it appears that most of the countries concerned agreed with the European Commission that the Directive 2001/20/EC was inconsistently transposed across the European Union,

for instance regarding interpretation of definitions of substantial amendments and rules for reporting Susars, and that such inconsistent transposition needs to be corrected by clarifying guidance and making their application mandatory since they are referenced in the Directive 2001/20/EC itself.

Section 10.3 of this analysis states: "*Insurance was cited as a major challenge for sponsors in today's regulatory framework in the EU. The lack of flat-rate insurers and EU-wide insurance policies was lamented. It was stressed that policies did not sufficiently take into account the risks, and that the amount and duration of cover differed widely in the EU. An EU-wide insurance was suggested and advocated as a 'silver bullet' for academic research*" (emphasis added).

On 30th March 2010, the European Commission published a number of documents relating to clinical trials.

These include:

- The above cited summary of the responses to their recent consultation on the functioning of the Directive,
- A new guidance on the request to the Competent Authority for authorization of a CTA,
- An updated Questions & Answers,
- An updated guidance on the conduct of GCP inspections.

Besides, the clinical trials facilitation group (CTFG) created by the EU Heads of Medicines Agency (HMA) in 2004 for the coordination of implementation of the EU clinical trials directive 2001/20 EC across the member states, published a "*Guidance document for a Voluntary Harmonisation Procedure (VHP) for the assessment of multinational Clinical Trial Applications*" in order to propose a harmonised procedure for assessing multinational clinical trials by the National Competent Authorities (NCA) in EU.

Switzerland

Clinical trials implemented in Switzerland are mainly governed by the Federal Law on Medicinal Products and Medical Devices dated December 15th, 2000 (updated on 1st May 2007) and the Ordinance on the clinical trials of therapeutic products (OClin) dated October 17th, 2001.

According to **Article 7 of this Ordinance**, the sponsor must compensate a trial subject for any damage that he or she may suffer within the framework of the clinical trial and to meet such an obligation, the sponsor may take out insurance. Clinical trial insurance is not by law compulsory in Switzerland, as it is for the sponsor to choose the appropriate manner to compensate damage caused by clinical trials (bank guarantee or insurance).

It should be noted that:

- The quasi-totality of Swiss cantons adapted their legislation to the federal law on products therapeutics (RS 812.21), in particular Fribourg, Geneva, Lucerne and Vaud. As for other cantons such as Neuchâtel, Jura, Saint Gall, Valais, Zurich and Zoug, an adaptation of the terminology remains to make.
- According to the new Geneva law on the health, published on June 2nd, 2006, (i) the article 62 of this law is focused on the case of conflicts of interests in the field of the biomedical research involving human persons: this is the sole provision dealing with this question in Switzerland and, in our knowledge, one of the rare if it is not the only one to make it at the European level, and (ii) the article 63 of this law establishes the creation of

a public register of the subjects of clinical trials so that these cannot participate in several clinical trials at the same time. Other cantons know such a register, in particular Basel and the Tessin.

Between 2007 and 2009, Swissmedic (the Swiss Institute of the therapeutic products) published documents to reinforce the framework of the insurance and in particular:

- The "*Certificate of insurance for the attention of the Swiss Ethic committees*" (version September 2007) provides the sponsor with the model that must be used by the insurer.
- The document entitled "*Insurance Coverage of Liability In Clinical trial On Therapeutic Products*" dated March 23, 2007. According to this document:

(i) To assume his obligation "to compensate the subject of the clinical trial which this one would undergo within the framework of the aforementioned trial" by virtue of the Swiss regulations applicable to clinical trials (in particular the article 7 of the Ordinance on the clinical trials of therapeutic products dated October 17th, 2001), the sponsor "may take out an insurance".

In particular, the sponsor has to respect the "conditions-frame" defined with the representatives of the committee specialized in the civil liability of the Swiss Association of Insurance while taking into account "minimal requirements in insurance coverage in the field of clinical trials" adopted by the cantonal Ethic committees implemented as from 1st April 2005.

(ii) If the sponsor is willing to take out an insurance and complies with the said "conditions-frame", Swissmedic will proceed to no additional analysis within the framework of the notification of a clinical trial. If by against an insurance policy which is subjected to Swissmedic does not correspond to the said condition-frame, because it diverges from it (that is because of additions or because of deletions), the respect for the legal requirements will specifically be verified within the framework of the notification of the clinical trial concerned.

Thus, it is to the sponsor to indicate to Swissmedic during the notification of a clinical trial if its insurance policy contains differences with regard to "conditions-frame" above mentioned. This seems to lead to difficulties for the sponsor since the file subjected to Swissmedic contains only an insurance certificate.

The Guideline "**Drawing up information and the statement of informed consent for trial subjects**" dated August 27, 2008.

In May 2010, Swissmedic published new documents and in particular:

- the "**Questions & Answers**" documents which precise in particular that the sponsor responsible of a clinical trial need not be a Swiss citizen; the phrase "**a person in Switzerland**" in the article 7 of the Ordinance means that a person is domiciled in Switzerland (or, in the case of a legal entity, has its registered offices there).
- The "**Checklist for the Guideline for Drawing up a notification dossier for Clinical Trials with Medicines**" which mentions the information that must be provided under the file for notification and authorisation of a clinical trial, among which represents the certificate of insurance or the insurance policy concerned.

- The Guideline Notification intended to fulfil the needs of clinical trials sponsors. In particular, this guideline clarifies the requirements for a notification dossier, and corresponds to Swissmedic's need for complete documentation within the submission of the clinical trial file, being précised that, in accordance with Article 15 of the Ordinance on Clinical Trials of Medicinal Products (OClin), the processing of documents only starts once the complete application has been received by the Swiss Ethic committee.

Should you require further information or assistance or to obtain a comprehensive copy for legal and practical requirements for each territory round the world please do not hesitate to contact me.

We can also supply you various documents referred to and summaries of the trends in each area of the world.

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