

Children's Rights and Tobacco control in Germany

Submission to the UN Committee on the Rights of the Child

88th Pre-Sessional Working Group (28 September 2020 – 2 October 2020)

Fifth and sixth supplementary report on the implementation of the UN Convention on the Rights of the Child in the

Federal Republic of Germany

Date: 26 May 2020

This report can be published on the CRC website.

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This report is presented by

Berlin Working Group on Environment and Development (BLUE 21 e.V.) / Unfairtobacco

as well as

Action on Smoking and Health (US), Deutsches Kinderhilfswerk (German Children's Fund), European Network for Smoking and Tobacco Prevention (ENSP), FACT e.V. – Women Against Tobacco, Friedensband, German Cancer Research Center (DKFZ), German Centre for Addiction Issues (DHS), German Lung Foundation, German NCD Alliance DANK, German Network for Tobacco free Healthcare Services (DNRfK), German Respiratory Society (DGP), German Society of Pediatric Allergology (GPA), Health Care Plus, Institute for Therapy and Health Research (IFT Nord), Kindernothilfe (Supporting Children in Need), Smokefree Partnership (SFP), Vivantes Hospital, VIVID – Institute for the Prevention of Addiction

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1 Introduction / Summary

Tobacco smoking is often viewed as a problem that has been “solved”, particularly in EU countries. However, tobacco use is responsible for more than 120,000 deaths per year, i.e. 13% of all deaths in Germany. Smoking prevalence among children and adolescents has declined during the past 10 years, while the use of e-cigarettes has significantly increased.¹

Tobacco interferes with children’s rights and as such addressing tobacco is part of the government’s human rights obligation.² Tobacco and the actions of the tobacco industry prevent children and adolescents in Germany from enjoying the highest attainable standard of health and disproportionately impact children already suffering from social inequalities.

In 2016, Germany translated the EU’s Tobacco Products Directive into national law,³ including a ban on flavours in cigarettes, the introduction of graphic health warnings on tobacco products and the first ever regulations of electronic cigarettes. Since then, the sale of electronic cigarettes to minors is banned. These steps significantly improved the protection of children and youth from taking up smoking or other forms of nicotine use.⁴

Nevertheless, children and adolescents in Germany are still inadequately protected from secondhand smoke. The CRC General Comment No. 15 on health determines a smoke-free environment as one core requirement for adequate housing. CRC General Comments No. 15 on health and No. 16 on the impact of the business sector on children’s rights both determine that states are required to ratify, implement and enforce the WHO Framework Convention on Tobacco Control (FCTC). Though Germany has ratified the WHO FCTC, it has not yet fully implemented the Convention’s measures particularly regarding protecting children from secondhand smoke and from advertisement for tobacco and nicotine products. Therefore, Germany ended up last of 36 countries in the latest ranking on tobacco control in Europe.⁵

Additionally, Germany based companies import for their cigarette production tobacco leaf which was produced with child labour.⁶ The violation of children’s rights in the tobacco supply chain affects Germany’s extraterritorial obligations to respect and protect children’s rights.

1 Orth B, Merkel C 2019: Rauchen bei Jugendlichen und jungen Erwachsenen in Deutschland. Ergebnisse des Alkoholsurveys 2018 und Trends. BZgA-Forschungsbericht. Cologne, Germany. Online: bzga.de/fileadmin/user_upload/PDF/studien/Alkoholsurvey_2018_Bericht-Rauchen.pdf, accessed 20.04.2020.

2 WHO Regional Office for Europe 2019: New avenues for tobacco control: Links to sustainable development and human rights. In: European Tobacco Use Trends Report 2019. Copenhagen, Denmark. Online: euro.who.int/__data/assets/pdf_file/0009/402777/Tobacco-Trends-Report-ENG-WEB.pdf, accessed 20.04.2020.

3 Gesetz über Tabakerzeugnisse und verwandte Erzeugnisse (Tabakerzeugnisgesetz – TabakerzG). Online: gesetze-im-internet.de/tabakerzg/TabakerzG.pdf, accessed 20.04.2020. Verordnung über Tabakerzeugnisse und verwandte Erzeugnisse (Tabakerzeugnisverordnung – TabakerzV). Online: gesetze-im-internet.de/tabakerzv/TabakerzV.pdf, accessed 20.04.2020.

4 Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child.

5 Joossens L, Feliu A, Fernandez E 2020: The Tobacco Control Scale 2019 in Europe. Brussels, Belgium. Online: tobaccocontrolscale.org/TCS2019.pdf, accessed 20.04.2020.

6 Jacob A 2020: Children in tobacco growing – the most vulnerable in the supply chain. In: Children’s Rights and Tobacco Control. The Right to a tobacco-free world. Berlin, Germany. Online: unfairtobacco.org/wp-content/uploads/2020/02/Brochure_Childrens-Rights_EN.pdf, accessed 20.04.2020.

2 Tobacco consumption in Germany

2.1 Challenges

2.1.1 Articles 3, 6 & 24: Best interest of the child & rights to life and health

Tobacco smoking is one of the leading risk factors for premature death and disability worldwide. In Germany, 13% of all deaths and 19% of cancers are attributable to tobacco smoking.⁷ Worldwide, smoking causes 8 million deaths each year, nearly 900,000 of them due to exposure to secondhand smoke.⁸ Children and adolescents are adversely affected by smoking when they are exposed to secondhand smoke (SHS) and even more so if they start smoking themselves. Currently, about 390,000 children and adolescents (7.2%) smoke in Germany.⁹

Tobacco smoking damages almost every organ in the human body and is the single most important preventable risk factor for cancer, cardiovascular diseases, respiratory diseases and type 2 diabetes. Inhaling tobacco smoke from the ambient air (secondhand smoke) also causes numerous diseases, some of which are very serious.

Health damages from SHS are increased when the exposure is very high and occurs over a long period of time. Children are particularly at risk from it because they have a higher respiratory rate and a less efficient detoxification system than adults. In infants, exposure to SHS increases the risk of sudden infant death and the frequency of asthma and ear infections.¹⁰ In children, it increases the risk of respiratory ailments, meningitis, middle ear inflammations, and infections of the lower respiratory tract.¹¹ Individual studies suggest that exposure to tobacco smoke in childhood could have long-term adverse effects on health extending into adolescence and adulthood.¹²

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- 7 Schaller K, Mons U 2018: Tabakprävention in Deutschland und international: Tobacco control in Germany and worldwide. Bundesgesundheitsblatt Gesundheitsforschung Gesundheitsschutz 61(11):1429–38. DOI:10.1007/s00103-018-2819-7.
Mons U, Gredner T, Behrens G, et al. 2018: Cancers Due to Smoking and High Alcohol Consumption. Dtsch Arztebl Int 115(35-36):571–77. DOI:10.3238/arztebl.2018.0571.
 - 8 GBD 2016 Risk Factors Collaborators 2017: Global, regional, and national comparative risk assessment of 84 behavioural, environmental and occupational, and metabolic risks or clusters of risks, 1990–2016: a systematic analysis for the Global Burden of Disease Study 2016. The Lancet 390(10100):1345–1422. DOI:10.1016/S0140-6736(17)32366-8.
World Health Organization 2019: WHO report on the global tobacco epidemic 2019: Offer help to quit tobacco use. Geneva, Switzerland. Online: apps.who.int/iris/bitstream/handle/10665/326043/9789241516204-eng.pdf?ua=1, accessed 06.01.2020.
 - 9 Zeiher J, Starker A, Kuntz B 2018: Smoking behaviour among children and adolescents in Germany. Results of the cross-sectional KiGGS Wave 2 study and trends. Journal of Health Monitoring 3(1). DOI:10.17886/RKI-GBE-2018-025.
 - 10 Schaller K, Mons U 2018: Passivrauchen – Gesundheitsgefahr vom Lebensanfang bis ins Erwachsenenalter. Atemwegs- und Lungenkrankheiten 5(45): 241ff. DOI:10.5414/ATX02391.
 - 11 Royal College of Physicians 2010: Passive Smoking and Children. A report by the Tobacco Advisory Group. London, UK. Online: cdn.shopify.com/s/files/1/0924/4392/files/passive-smoking-and-children.pdf?15599436013786148553, accessed 20.04.2020.
 - 12 Deutsches Krebsforschungszentrum (DKFZ; Ed.) 2015: Tabakatlas Deutschland 2015. Heidelberg, Germany. Online: [dkfz.de/de/tabakkontrolle/download/Publikationen/sonstVeroeffentlichungen/](https://www.dkfz.de/de/tabakkontrolle/download/Publikationen/sonstVeroeffentlichungen/)

Consequentially, children's exposure to SHS conflicts with the best interest of the child.¹³ In line with General Comment No. 15, regulations concerning households and SHS exposure should take the best interest of the child principle as their primary consideration. Therefore, States parties and domestic courts need to establish further administrative practices and case law that weigh the importance of children's and caretakers' rights.¹⁴

Although smoking initiation happens at an ever-increasing age, still most smokers start smoking as teenagers.¹⁵ Nicotine contained in tobacco is addictive. Adolescents can become addicted very quickly, even if they smoke only a few cigarettes each month.¹⁶ After initially trying out cigarettes, an estimated 69% of adolescents will eventually become regular smokers.¹⁷ The earlier teenagers start smoking, the more likely they are to continue smoking for the rest of their lives.¹⁸ As a result, they have a correspondingly high risk of developing a secondary disease from smoking and eventually dying from it.

Though the smoking prevalence among youth in Germany declined steadily in the past 10 years, about 390,000 children and adolescents still smoke, equaling the prevalence rate of 7.2%. There are enormous socio-economic differences in smoking rates: While only 4% of young people with a high socio-economic status smoke, the proportion among socially disadvantaged groups is twice as high (8%).¹⁹ The proportion of adolescents (12 to 17 years) who have ever smoked a water pipe is also declining, but still remains at worrying 23,8%, while its toxicity is often underestimated.²⁰ In contrast, alternative nicotine delivery systems (e.g. e-cigarettes, heated tobacco products) have gained in popularity among young people. Around 15% of adolescents have ever used electronic cigarettes.²¹

Tabakatlas_auf_einen_Blick-Zahlen_und_Fakten.pdf, accessed 10.01.2020.

Savran O, Ulrik CS 2018: Early life insults as determinants of chronic obstructive pulmonary disease in adult life. *Int J Chron Obstruct Pulmon Dis.* 13: 683-693. DOI:10.2147/COPD.S153555.

Diver WR, Jacobs EJ, Gapstur SM 2018: Secondhand smoke exposure in childhood and adulthood in relation to adult mortality among never smokers. *Am J Prev Med.* 55: 345-352. DOI:10.1016/j.amepre.2018.05.005.

13 Bandiera FC, Richardson AK, Lee DJ et al. 2011: Secondhand Smoke Exposure and Mental Health Among Children and Adolescents. *Arch Pediatr Adolesc Med.* 165(4):332–338. DOI:10.1001/archpediatrics.2011.30.

14 Wortmann E 2020: Exposure the secondhand smoke in households: children's rights versus privacy rights of caretakers. In: *Children's Rights and Tobacco Control. The Right to a tobacco-free world.*

15 Marcon A, Pesce G, Calciano L et al. 2018: Trends in smoking initiation in Europe over 40 years: A retrospective cohort study. *PLoS ONE* 13(8):e0201881: 6, 14ff. DOI:10.1371/journal.pone.0201881.

16 DiFranza JR 2015: A 2015 Update on the Natural History and Diagnosis of Nicotine Addiction. *Curr Pediatr Rev* 11(1):43-55. DOI:10.2174/1573396311666150501002703.

England LJ, Aagaard K, Bloch M et al. 2017: Developmental toxicity of nicotine: a transdisciplinary synthesis and implications for emerging tobacco products. *Neurosci Biobehav Rev* 72:181. DOI:10.1016/j.neubiorev.2016.11.013.

Lydon DM, Wilson SJ, Child A et al. 2014: Adolescent brain maturation and smoking: what we know and where we're headed. *Neurosci Biobehav Rev* 45:323-42. DOI:10.1016/j.neubiorev.2014.07.003.

17 Birge M, Duffy S, Miler JA et al. 2018: What proportion of people who try one cigarette become daily smokers? A meta-analysis of representative surveys. *Nicotine Tob Res* 12(20):1431. DOI:10.1093/ntr/ntx243.

18 England LJ, Aagaard K, Bloch M et al. 2017: Developmental toxicity of nicotine.

19 Kuntz B, Zeiher J, Starker A, Lampert T 2019: Tabakkonsum und Passivrauchbelastung von Kindern und Jugendlichen in Deutschland – wo stehen wir heute?. *Atemwegs- und Lungenkrankheiten* 45(05): 217–6. DOI:10.5414/ATX02408.

20 Hollstein T 2019: Shisha-Rauchen: Das angeblich bessere Rauchen *Dtsch Ärztebl* 119(7):318. Online: aerzteblatt.de/archiv/205561/Shisha-Rauchen-Das-angeblich-bessere-Rauchen, accessed 20.04.2020.

Health surveillance figures of the Robert Koch Institute indicate that although domestic exposure to SHS has decreased from 35% to below 20% since the turn of the millennium, it is still highly unequally distributed depending on socio-economic status.²² Overall, 13.8 % of children and adolescents are exposed to SHS. While 59% of children in disadvantaged groups have at least one parent who smokes, this applies to 40.8% of children with a medium and just 20.7% of children with a high socio-economic status. These differences are also reflected in SHS exposure: Over 20% of children with low socio-economic status are exposed to SHS at home. For children with medium and high status, this is much less common (7.7% and 1.5%).²³

About one third of German smokers smoke in cars, when children are present,²⁴ equaling more than one million children and adolescents directly or indirectly affected by SHS in cars. Toxic exposure to SHS in children can cause serious health risks such as asthma, rattling lungs or reduced lung function. This is particularly dangerous in a small enclosed space such as a car, where it can reach the toxic level of a smoking pub. A recent study of 7 cities in the European Union concludes that at least 20% of young people in European and German communities are exposed to SHS in cars every week.²⁵

According to estimates, more than 50 infants die each year from sudden infant death syndrome and disorders due to perinatal exposure to a smoking mother.²⁶ Smoking during pregnancy has harmful effects on women's pregnancies (e.g. miscarriages, preterm births or stillbirths) as well as on infants' health, cognitive, and social development (e.g. behavioral problems). Water pipe tobacco use has harmful effects on health similar to combustible cigarettes.²⁷ As yet, there is little evidence about the effects of electronic nicotine delivery systems use during pregnancy.

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- 21 Kotz D, Böckmann M, Kastaun S 2018: The Use of Tobacco, E-Cigarettes, and Methods to Quit Smoking in Germany. *Dtsch Arztebl Int* 115(14):235–42. DOI:10.3238/arztebl.2018.0235.
Orth B, Merkel C 2019: Rauchen bei Jugendlichen und jungen Erwachsenen in Deutschland.
- 22 Kuntz B, Lampert T 2016: Smoking and Passive Smoke Exposure Among Adolescents in Germany – Prevalence, Trends Over Time, and Differences Between Social Groups. *Dtsch Arztebl Int* 113(3):23–30. DOI:10.3238/arztebl.2016.0023.
Kuntz B, Lampert T 2016: Social disparities in parental smoking and young children's exposure to secondhand smoke at home: a time-trend analysis of repeated cross-sectional data from the German KiGGS study between 2003-2006 and 2009-2012. *BMC Public Health* 16:485. DOI:10.1186/s12889-016-3175-x.
- 23 Kuntz B, Zeiher J, Starker A, Lampert T 2019: Tabakkonsum und Passivrauchbelastung von Kindern und Jugendlichen in Deutschland – wo stehen wir heute?.
- 24 Fu M, Castellano Y, Tigova O et al. 2018: Prevalence and correlates of different smoking bans in homes and cars among smokers in 6 Countries of the EUREST-PLUS ITC Europe Surveys. *Tobacco Induced Diseases* 16(2):8. DOI:10.18332/tid/94827.
- 25 Mlinarić M, Schreuders M, Mons U et al. 2019: Exposure to car smoking among youth in seven cities across the European Union. *Drug and alcohol dependence* 205. DOI:10.1016/j.drugalcdep.2019.107561.
Patel M, Thai CL, Meng YY et al. 2018: Smoke-Free Car Legislation and Student Exposure to Smoking. *Pediatrics* 141:40-50. DOI:10.1542/peds.2017-1026H.
Raouf SA, Agaku IT, Vardavas CI 2015: A systematic review of secondhand smoke exposure in a car: Attributable changes in atmospheric and biological markers. *Chronic respiratory disease* 12(2):120–131. DOI:10.1177/1479972315575202.
Rees VW, Connolly GN 2006: Measuring air quality to protect children from secondhand smoke in cars. *American journal of preventive medicine* 31(5):363–368. DOI:10.1016/j.amepre.2006.07.021.
- 26 Mons U, Kahnert S 2017: Neuberechnung der tabakattributablen Mortalität – Nationale und regionale Daten für Deutschland. *Das Gesundheitswesen* 81(01):24-33. DOI:10.1055/s-0042-123852.
- 27 WHO Study Group on Tobacco Product Regulation 2015: Waterpipe tobacco smoking: health effects, research needs and recommended actions by regulators. 2nd edition. Geneva, Switzerland. Online: who.int/iris/bitstream/handle/10665/161991/9789241508469_eng.pdf, accessed 20.04.2020.

However, it was shown that their use is associated with an increased risk of small-for-gestational-age birth.²⁸

With regard to protecting children, cessation support is necessary for both adults (i.e. parents, caretakers) and adolescents, but Germany has no national cessation strategy.²⁹ A recent study of cessation behaviour shows that the number of smokers who try to quit smoking at least once per year has been falling. Since evidence-based cessation methods are not covered by health insurance providers, the high costs of treatment fall disproportionately on poorer smokers.³⁰ The inability of adults to access cessation services impacts the health of the children they care for and, again, social inequalities aggravate the problem. Although it is widely known that the majority of smokers start smoking before adulthood, cessation support for underaged smokers is a comparably disregarded measure covered by online sources and local projects without a comprehensive national strategy.³¹

The 5th and 6th State Party Reports of the Federal Republic of Germany rightfully determine the decline in smoking prevalence among youth since the Millennium.³² Nevertheless, the reports fall short in presenting data on smoking prevalence disaggregated by socio-economic status or other factors which would show the widening gap in prevalence. Equally, there is no data on SHS exposure of children and adolescents. Furthermore, data about other tobacco products such as shishas, nicotine and non-nicotine containing e-cigarettes is not included.

2.1.2 Other children's rights' violations

Article 12: Respect for the views of the child

In the Second Child Rights Report for Germany,³³ nearly half of the 2,725 survey respondents would like to have more opportunities for sharing their opinion. More than 60% of them wish to have a say at home more often concerning issues that affect them, such as SHS. Also more than half of the survey respondents reported to be exposed to SHS. In the Netherlands, Dutch

28 Cardenas VM, Fischbach LA, Chowdhury P 2019: The use of Electronic Nicotine Delivery Systems (ENDS) during pregnancy and the reproductive outcomes: A systematic review of the literature. *Tobacco Induced Diseases* 1;17:52. DOI:10.18332/tid/104724.

29 World Health Organization 2019: WHO Report on the Global Tobacco Epidemic, 2019. Geneva, Switzerland. Online: apps.who.int/iris/bitstream/handle/10665/326043/9789241516204-eng.pdf, accessed 10.02.2020.

30 Kotz D, Batra A, Kastaun S 2020: A Germany-wide representative survey conducted in 19 waves from 2016 to 2019 (The DEBRA Study) and analyzed by socioeconomic status. *Dtsch Arztebl Int* 117: 7-13. DOI:10.3238/arztebl.2020.0007.

31 IFT-Nord 2020: Just be smokefree. Online: justbesmokefree.de/, accessed 20.04.2020. Bundeszentrale für gesundheitliche Aufklärung 2020: rauchfrei! Online: rauch-frei.info/, accessed 20.04.2020.

32 Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child. Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child. Annex I. Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child. Annex II.

33 National Coalition Germany - Network for the implementation of the UN Convention on the Rights of the Child 2019: The Second Child Rights Report. Children and adolescents assess Germany's implementation of the UN Convention on the Rights of the Child in 2019. Online: netzwerk-kinderrechte.de/fileadmin/bilder/user_upload/Kinderrechtreport_Ansicht_englisch_komprimiert.pdf, accessed 20.04.2020.

adolescents report high support for the idea of a smoke-free future: 79% hoping that their future children will have no chance to start smoking. This is also relevant for Germany as the Netherlands are highly comparable in terms of youth prevalence rates, the policy system, and historical influence of the tobacco industry.³⁴

Article 17: Access to information

The information on smoking and tobacco products available in Germany is fundamentally unbalanced. The government spends about 20 million euros per year for its complete program on public health prevention. While only a fraction of this budget is determined for smoking prevention,³⁵ the tobacco industry uses a budget of more than 200 million euros for its advertising campaigns.³⁶

The 5th and 6th State Party Reports of the Federal Republic of Germany mention the prevention programmes carried out by the Federal Centre for Health Education (BzgA), but fail to report data on their effectiveness.³⁷

Tobacco advertising is pure image advertising, which is intended in particular to appeal to young people. It creates a positive product image as well as positive associations with smoking. Corporations use a variety of promotion channels, e.g. billboard advertising, advertising at the point of sale, sponsoring of sports and music events, cinema commercials and increasingly social media influencers.³⁸ In fact, exposure to tobacco advertising increases the likelihood that

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- 34 Schreuders M, Lagerweij NA, van den Putte B et al. 2018: To what extent and why adolescents do or do not support future tobacco control measures: A multimethod study in the Netherlands. *Tobacco Control* 27:596-599. DOI:10.1136/tobaccocontrol-2017-053770.
- 35 Bundesrepublik Deutschland 2020: Bundeshaushaltsplan 2020, Einzelplan 15, Bundesministerium für Gesundheit. Online: bundshaushalt.de/fileadmin/de.bundshaushalt/content_de/dokumente/2020/soll/epl15.pdf, accessed 20.04.2020.
- 36 Die Drogenbeauftragte der Bundesregierung 2019: Drogen- und Suchtbericht 2019. Online: drogenbeauftragte.de/fileadmin/dateien-dba/Drogenbeauftragte/4_Presse/1_Pressemitteilungen/2019/2019_IV.Q/DSB_2019_mj_barr.pdf, accessed 20.04.2020.
- 37 Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child.
Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child. Annex I.
Federal Republic of Germany 2019: Fifth and Sixth State Party Reports of the Federal Republic of Germany on the United Nations Convention on the Rights of the Child. Annex II.
- 38 Morgenstern M, Sargent JD, Isensee B, Hanewinkel R 2013: From never to daily smoking in 30 months: the predictive value of tobacco and non-tobacco advertising exposure. *BMJ Open* 3:e002907. DOI:10.1136/bmjopen-2013-002907.
Deutsches Krebsforschungszentrum 2012: Zigarettenwerbung in Deutschland – Marketing für ein gesundheitsgefährdendes Produkt. Rote Reihe Tabakprävention und Tabakkontrolle, Band 18. Heidelberg, Germany. Online: dkfz.de/de/tabakkontrolle/download/Publikationen/RoteReihe/Band_18_Zigarettenwerbung_in_Deutschland.pdf, accessed 17.01.2020.
Kaplan S 2018: Big Tobacco's Global Reach on Social Media. *The New York Times*. Online: nytimes.com/2018/08/24/health/tobacco-social-media-smoking.html, accessed 17.01.2020.
Campaign for Tobacco-Free Kids, Alliance for the Control of Tobacco Use (ACT Brazil), Corporate Accountability International, Framework Convention Alliance, InterAmerican Heart Foundation, Southeast Asia Tobacco Control Alliance 2014: You're the Target: New Global Marlboro Campaign Found to Target Teens. Online: tobaccofreekids.org/assets/global/pdfs/en/yourethetarget_report.pdf, accessed 17.01.2020.
Point 2018: Big Tobacco Is Funding Festivals And TV Shows To Boost Its Image. Online: youtube.com/watch?v=8pa1aK3SJ-E&feature=youtu.be, accessed 17.01.2020.
U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Chronic Disease Prevention and Health Promotion, Office on Smoking and Health 2012: Preventing Tobacco

children and adolescents will start to smoke. Adolescents who are more aware of tobacco advertising or who are more receptive to advertising are more likely to become smokers in later life.³⁹

Children have the right to information and this includes being protected from misleading or suggestive information and materials that have scientifically been proven to endanger their well-being.⁴⁰

Though Germany is in the process of introducing an outdoor advertising ban for tobacco products,⁴¹ the draft law contains several weaknesses. It does not restrict tobacco promotion activities and while it bans outdoor advertising, outside walls of tobacco shops will be exempt. Furthermore, the ban will only be introduced in steps: outdoor advertising for tobacco will be banned from January 2022, for heated tobacco products from January 2023 and for e-cigarettes from January 2024. Altogether, the tobacco advertising ban is far from comprehensive, and advertising for tobacco products and related products will continue to influence children and adolescents for a long time.⁴²

2.2 Recommendations

In order to improve the implementation of the UN Convention on the Rights of the Child concerning the threats posed by tobacco consumption in Germany, a mix of tobacco control policies will be cost-effective in reducing smoking prevalence. Tobacco taxation is often considered the strategy with the highest impact.⁴³

Therefore, the undersigned organisations recommend that the UN Committee calls on the German federal government to:

1. Fully implement the WHO Framework Convention on Tobacco Control as required by the UN CRC, General Comment No. 15 (2013) and 16 (2013).

Use Among Youth and Young Adults: A Report of the Surgeon General. Online: ncbi.nlm.nih.gov/books/NBK99237, accessed 17.01.2020.

- 39 Hanewinkel R, Isensee B, Sargent JD, Morgenstern M 2011: Cigarette advertising and teen smoking initiation. *Pediatrics* 127: e271-8. DOI:10.1542/peds.2010-2934.
- 40 Gispen MEC, Toebes BCA 2019: The Human Rights of Children in Tobacco Control. *Human Rights Quarterly* 41(2): 340-373. Project MUSE, DOI:10.1353/hrq.2019.0029.
- 41 Robert Roßmann 2019: Deutschland bekommt Tabakwerbeverbot. *Süddeutsche Zeitung*, 10 December 2019. Online: [sueddeutsche.de/politik/tabakwerbung-tabakwerbeverbot-cdu-csu-unionsfraktion-1.4718481](https://www.sueddeutsche.de/politik/tabakwerbung-tabakwerbeverbot-cdu-csu-unionsfraktion-1.4718481), accessed 04.04.2020.
- 42 CDU/CSU Fraktion im Deutschen Bundestag 2019: Verbraucher-und Gesundheitsschutz bei Tabakprodukten und E-Zigaretten. Positionspapier derCDU/CSU-Fraktion im Deutschen Bundestag. Beschluss vom 10. Dezember 2019. Online: [cducsu.de/sites/default/files/2019-12/Positionspapier%20Verbraucher-%20und%20Gesundheitsschutz%20bei%20Tabakprodukten%20und%20E-Zigaretten%20%28002%29_0.pdf](https://www.cducsu.de/sites/default/files/2019-12/Positionspapier%20Verbraucher-%20und%20Gesundheitsschutz%20bei%20Tabakprodukten%20und%20E-Zigaretten%20%28002%29_0.pdf), accessed 20.04.2020.
- 43 Leão T, Perelman J, Clancy L et al. 2019: Economic evaluation of five tobacco control policies across seven European countries. *Nicotine Tobacco Research* ntr124, DOI:10.1093/ntr/ntz124.
Feliu A, Filippidis FT, Joossens L et al. 2019: Impact of tobacco control policies on smoking prevalence and quit ratios in 27 European Union countries from 2006 to 2014. *Tobacco Control* 28(1):101–09. DOI:10.1136/tobaccocontrol-2017-054119.
Chaloupka FJ, Yurekli A, Fong GT 2012: Tobacco taxes as a tobacco control strategy. *Tobacco Control* 21(2):172–80. DOI:10.1136/tobaccocontrol-2011-050417.

2. Regularly increase tobacco taxes adapted to national purchasing power in order to make tobacco products and related products such as e-cigarettes and heated tobacco products less affordable, especially for children and adolescents youth. A percentage of the income generated by tobacco taxes should be earmarked for a smoking prevention and cessation fund, similar to the practice when Germany introduced a tax on alcopops and used the net increase in tax revenues for addiction prevention measures.⁴⁴
3. Comprehensively ban all tobacco advertising, promotion and sponsoring, including for related products such as e-cigarettes and heated tobacco products. A comprehensive ban should include advertising at the point of sale, in cinemas, at music and other cultural events.
4. Ban smoking in cars when minors are present. Ban smoking in all public places and during all events where children and adolescents are present, including the surroundings of schools, on playgrounds etc.
5. Develop instruments for free-of-charge cessation services tailored for adolescents as well as for (expecting) parents.
6. Enforce and control the ban of sale of single cigarettes more severely.

3 Children's rights' violations in tobacco supply chains – extraterritorial obligations of Germany

3.1 Challenges

3.1.1 Art. 32: Protection from economic exploitation and hazardous work

Germany is one of the world's leading cigarette exporters with an annual export volume of about 120 billion cigarettes.⁴⁵ To manufacture these cigarettes, roughly 115,000 tons of tobacco leaf are imported to Germany every year.⁴⁶ This tobacco originates among others from Brazil, USA, Malawi, India, Indonesia, Tanzania, Zimbabwe, Zambia, Mozambique and Bangladesh.⁴⁷ In these countries, child labour in tobacco growing is common and has been reported by the

44 Gesetz über die Erhebung einer Sondersteuer auf alkoholhaltige Süßgetränke (Alkopops) zum Schutz junger Menschen (Alkopopsteuergesetz – AlkopopStG). Online: gesetze-im-internet.de/alkopopstg/BJNR185710004.html, accessed 20.04.2020.

45 Statista 2019: Exportmenge von Zigaretten aus Deutschland in den Jahren 1995 bis 2018 (in Milliarden Stück). Online: de.statista.com/statistik/daten/studie/6227/umfrage/export-von-zigaretten-aus-deutschland, accessed 17.01.2020.

Observatory of Economic Complexity 2019: Cigarettes containing tobacco trade (2017). Online: atlas.media.mit.edu/en/profile/hs92/240220, accessed 17.01.2020.

46 UN data 2019: Trade of goods, US\$, HS1992, 24 Tobacco and manufactured tobacco substitutes, Filter: Cigarettes containing tobacco. Online: data.un.org/Data.aspx?q=tobacco+unmanufactured+stem-med+stripped&d=ComTrade&f=_11Code%3a25%3bcmdCode%3a240120, accessed 17.01.2020.

47 Observatory of Economic Complexity 2019: Where does Germany import raw tobacco from? (2017). Online: atlas.media.mit.edu/en/visualize/tree_map/hs92/import/deu/show/2401/2017, accessed 17.01.2020.

US Department of Labor, by Human Rights Watch and other non-governmental organisations.⁴⁸ Most of the world's tobacco is grown in low- and middle-income countries where low labour standards are prevalent and smallholder farmers have difficulties to earn a living from it.⁴⁹ Farmers in Brazil, Malawi, Bangladesh and other countries complain about the contracting practices and about price suppression for their tobacco harvest by the companies. In Malawi, like in Spain and Italy, the tobacco industry was found guilty of collusion over prices. Many smallholder families are indebted to tobacco companies. Their income is often so low that they are not able to pay workers and cannot improve their living conditions sustainably. For this reason, many smallholder families require their own children to contribute to their livelihood by working in the fields.⁵⁰

Children working in tobacco fields are exposed to hazardous chemicals (pesticides, fertilizers etc.) as well as to nicotine from tobacco plants. Lack of protective clothing is widespread, increasing the risk of chemical as well as acute nicotine poisonings, also called Green Tobacco Sickness (GTS).⁵¹ In addition to poisonings, children are at risk of injuries because they have to use sharp tools for field work and the work is physically exhausting and un-ergonomic.

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- 48 US Department of Labor 2018: List of Goods produced by Child Labor or Forced Labor. Online: [dol.gov/sites/dolgov/files/ILAB/ListofGoods.pdf](https://www.dol.gov/sites/dolgov/files/ILAB/ListofGoods.pdf), accessed 17.01.2020.
 US Department of Labor 2018: Child Labor and Forced Labor Reports. Findings on the Worst Forms of Child Labor – India. Online: [dol.gov/agencies/ilab/resources/reports/child-labor/india](https://www.dol.gov/agencies/ilab/resources/reports/child-labor/india), accessed 04.04.2020.
 Human Rights Watch 2018: A Bitter Harvest. Online: [hrw.org/report/2018/04/05/bitter-harvest/child-labor-and-human-rights-abuses-tobacco-farms-zimbabwe](https://www.hrw.org/report/2018/04/05/bitter-harvest/child-labor-and-human-rights-abuses-tobacco-farms-zimbabwe), accessed 04.04.2020.
 Human Rights Watch 2016: The Harvest is in my Blood. Online: [hrw.org/report/2016/05/24/harvest-my-blood/hazardous-child-labor-tobacco-farming-indonesia](https://www.hrw.org/report/2016/05/24/harvest-my-blood/hazardous-child-labor-tobacco-farming-indonesia), accessed 04.04.2020.
 Human Rights Watch 2015: Teen of the Tobacco Fields. Online: [hrw.org/report/2015/12/09/teens-tobacco-fields/child-labor-united-states-tobacco-farming](https://www.hrw.org/report/2015/12/09/teens-tobacco-fields/child-labor-united-states-tobacco-farming), accessed 04.04.2020.
 Swedwatch 2016: Smokescreens in the Supply Chain. Online: [swedwatch.org/wp-content/uploads/2016/12/bat_81_15aug_ensida_uppdaterad_version_160816.pdf](https://www.swedwatch.org/wp-content/uploads/2016/12/bat_81_15aug_ensida_uppdaterad_version_160816.pdf), accessed 04.04.2020.
 Kindernothilfe 2016: "I know that this work is dangerous" – interview on child labour on the tobacco plantations. Online: [youtube.com/watch?v=gvoLyfkHyaE](https://www.youtube.com/watch?v=gvoLyfkHyaE), accessed 04.04.2020.
- 49 Sonja von Eichborn, Marie-Luise Abshagen 2015: Tobacco: Antisocial, Unfair, Harmful to the Environment. Tobacco Production and Consumption as an Example of the Complexity of Sustainable Development Goals (SDGs). Berlin, Germany. Online: unfairtobacco.org/en/sdg-studie, accessed 17.01.2020.
 Laura Graen 2016: SDG-Factsheet No. 1: Tobacco | Poverty | Hunger: How Tobacco Control can contribute to achieving Development Goals 1 and 2. Berlin, Germany. Online: unfairtobacco.org/en/sdg-facts01, accessed 17.01.2020.
- 50 Lecours N 2014: The harsh realities of tobacco farming: A review of socioeconomic, health and environmental impacts. In: Leppan W, Lecours N, Buckles D (Ed.). Tobacco control and tobacco farming: separating myth from reality. London, UK; New York, USA; Ottawa, Canada. Online: [idrc.ca/en/book/tobacco-control-and-tobacco-farming-separating-myth-reality](https://www.idrc.ca/en/book/tobacco-control-and-tobacco-farming-separating-myth-reality), accessed 17.01.2020.
 Otañez M, Mamudu H, Glantz S 2007: Global leaf companies control the tobacco market in Malawi. Tobacco Control 16:261–69. DOI:10.1136/tc.2006.019273.
 Swedwatch 2016: Smokescreens in the Supply Chain.
- 51 Natacha Lecours 2014: The harsh realities of tobacco farming: A review of socioeconomic, health and environmental impacts.
 Farida Akhter, Daniel Buckles, Rafiqul Haque Tito 2014: Breaking the dependency on tobacco production: transition strategies for Bangladesh. In: Tobacco control and tobacco farming: separating myth from reality.
 Neice Muller Xavier Faria et al 2014: Occupational exposure to pesticides, nicotine and minor psychiatric disorders among tobacco farmers in southern Brazil. NeuroToxicology 45, Supplement C: 347–54, DOI:10.1016/j.neuro.2014.05.002.
 Jeffrey Drope, Qing Li, Edson Correia Araujo et al. 2017: The economics of tobacco farming in Indonesia. WBG Global Tobacco Control Program. Washington, D.C., USA. Online: documents.worldbank.org/curated/en/161981507529328872/The-economics-of-tobacco-farming-in-Indonesia, accessed 17.01.2020.

Therefore, child labour in tobacco cultivation violates the International Labour Organization's (ILO) Convention No. 182 on the elimination of the worst forms of child labour.⁵²

To combat child labour sustainably and to break the vicious cycle of health risks, poverty and malnutrition in tobacco growing, farmers should be supported in switching to alternative livelihoods to tobacco cultivation. The German development agency GIZ currently supports a training programme for rural extension advisors on diversifying agriculture with crops such as soybean and sunflower in Malawi.⁵³ Following this first positive example, the German government should support more such programmes in tobacco growing regions as part of its development cooperation. This would also be in line with its obligations under Article 17 of the WHO FCTC and could be done in cooperation with other FCTC Parties.

According to UK human rights lawyers, the responsibility for child labour in tobacco growing ultimately lies with cigarette companies because they decide the price they will pay for tobacco leaf.⁵⁴ The supply chains and inherent responsibilities of German tobacco/cigarette companies and German subsidiaries of transnational tobacco/cigarette corporations are difficult to trace as there are no publicly accessible import directories and company organisation charts. Germany lacks a human rights due diligence law that enforces transparent supply chains and ensures that companies based in Germany can be held accountable for human rights abuses abroad.

3.1.2 Other children's rights violations

The ongoing exploitation of children as labourers in the tobacco supply chain also impedes a wider range of children's rights.

Article 3, 6 and 27: Best interest of the child & rights to life and adequate standard of living

It is evident that child labour on tobacco fields classified by the ILO as one of the worst forms of child labour conflicts with the best interest of the child as well as with the right to life, survival and development due to the inherent risks and dangers for the physical and psychological development of children.

Recent studies in Malawi, Bangladesh, Zambia, Indonesia and Zimbabwe - countries from where Germany sources tobacco leaf – suggest that many smallholder tobacco farmers and their families live in poverty and suffer from food insecurity, resulting in malnutrition. These circumstances clearly threaten the children's right to an adequate standard of living.⁵⁵

52 International Labour Organization 1999: Convention 182 – Worst Forms of Child Labour Convention. Online: ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C182, accessed 04.04.2020.

53 Deutsche Welle 2017: Eco Africa: Malawians swap for sunflowers. Online: dw.com/en/malawians-swap-tobacco-for-sunflowers/a-38659091, accessed 17.01.2020.

Donald Makoka 2018: Legumes and Sunflower in Malawi. Online: unfairtobacco.org/en/material/case-study-legumes-and-sunflower-in-malawi/, accessed 17.01.2020.

54 Sarah Bosley 2019: BAT faces landmark legal case over Malawi families' poverty wages. The Guardian. 31 October 2019. Online: theguardian.com/global-development/2019/oct/31/bat-faces-landmark-legal-case-over-malawi-families-poverty-wages, accessed 04.04.2020.

Leigh Day 2019: Malawi farmers in landmark legal fight against British American Tobacco. 31 October 2019. Online: leighday.co.uk/News/2019/October-2019/%E2%80%8BMalawi-tobacco-farmers-in-landmark-legal-fight-ag, accessed 04.04.2020.

55 Makoka D, Appau A, Lencucha R et al. 2016: Farm-Level Economics of Tobacco Production in Malawi. Lilongwe, Malawi; Atlanta, USA. Online: cancer.org/content/dam/cancer-org/research/economic-and-healthy-

Article 24: Health

Some studies in tobacco growing countries show that malnutrition and related childhood stunting is related to tobacco farming. Childhood stunting is caused by undernutrition and infections during the first 1,000 days of the child's life. It is an irreversible condition that leads to diminished cognitive and physical development, reduced productive capacity and poor health.⁵⁶ Bandarban, a major tobacco growing district in Bangladesh, has the highest level of malnutrition in the country and 48% of the children suffer from stunting. In Malawi, the rate of stunting among children born into tobacco-producing households was 51% – compared to 43% in non-tobacco-producing households.⁵⁷

When children work with tobacco leaves during harvest, curing, sorting and bundling, they are exposed to the nicotine of the tobacco plant. Nicotine is a water- and liposoluble neurotoxin that can be absorbed through the skin, especially when the tobacco leaves are wet. This causes an acute nicotine poisoning, also called Green Tobacco Sickness (GTS). It leads among others to dizziness, nausea, vomiting, diarrhoea and headache. Severe GTS cases need emergency hospital care to treat the resulting dehydration.⁵⁸ Additionally, children are exposed to hazardous pesticides and other chemicals.

Several factors prohibit smallholder tobacco farmers to access health care in case of an emergency. Limited incomes of tobacco farmer families restrict the access to health care facilities, social security systems are lacking in tobacco growing countries. As the smallholder farmers work independently for tobacco companies, the companies consequently don't provide health insurances or similar occupational safety measures.⁵⁹

Article 28: Education

Children working in tobacco farming reportedly have less access to education, due to their work in the fields. Peak seasons of tobacco farming, such as harvesting, often occur in parallel with the school curricula and prohibit children access to school.

In addition, it is often observed that children tend to drop out of education, if the education is not free of charge or not seen as relevant for their future lives by the children themselves or

policy/farm-level-economics-of-tobacco-production-in-malawi-full-report.pdf, accessed 17.01.2020.

Goma F, Drope J, Zulu R et al. 2017: The Economics of Tobacco Farming in Zambia (Revised version). Lusaka, Zambia; Atlanta, USA. Online: cancer.org/content/dam/cancer-org/research/economic-and-healthy-policy/economics-to-bacco-farming-zambia-2017.pdf, accessed 17.01.2020.

Swedwatch 2016: Smokescreens in the Supply Chain.

Jeffrey Drope, Qing Li, Edson Correia Araujo et al. 2017: The economics of tobacco farming in Indonesia.

Human Rights Watch 2018: A Bitter Harvest.

56 World Health Organisation. WHA Global Nutrition Targets 2025, Stunting Policy Brief. Online: who.int/nutrition/topics/globaltargets_stunting_policybrief.pdf, accessed 04.04.2020.

57 Swedwatch 2016: Smokescreens in the Supply Chain.

Benjamin Wood, Carl Nelson, Talip Kilic, Siobhan Murray 2013: Up in Smoke? Agricultural Commercialization, Rising Food Prices and Stunting in Malawi. Policy Research Working Paper 6650. Worldbank. DOI:10.1596/1813-9450-6650.

58 Neice Muller Xavier Faria et al 2014: Occupational exposure to pesticides, nicotine and minor psychiatric disorders among tobacco farmers in southern Brazil.

59 Lecours N 2014: The harsh realities of tobacco farming: A review of socioeconomic, health and environmental impacts.

their caretakers. This ultimately leads to children working at the side of their adult family members on the tobacco fields. Access to relevant, free, quality education is key to keep children in the education system. Older children that reach the official working age set by ILO Convention 138 need access to context-specific, inclusive and contemporary vocational training that helps them to develop alternative livelihood schemes for their own future.⁶⁰

3.2 Recommendations

Since Germany is a big importer of tobacco leaf and exporter of cigarettes, the violation of children's rights relating to tobacco production in the Global South affects the extraterritorial obligations of the country. In order to sustainably combat the worst forms of child labour, it is important to improve transparency and accountability of supply chains and to support viable alternative livelihoods for adults.

Therefore, the undersigned organisations recommend that the UN Committee calls on the German federal government to:

1. Participate actively and play a constructive role in the development of the UN Treaty on Business and Human Rights.
2. Introduce a human rights due diligence law which is suitable to hold companies accountable for the violation of children's rights in their global supply chains.
3. Prioritize children's rights in bilateral government negotiations, strategy development and bilateral and multilateral agreements with recipient countries.
4. Initiate or intensify development cooperation in tobacco growing countries in the area of
 - health care education for farming families,
 - alternative livelihoods for adult tobacco farmers (in line with Art. 17 of the WHO FCTC and if possible in cooperation with other countries), and
 - context-specific vocational training for youth in alternative livelihood schemes.

4 Organizations submitting this report

In alphabetical order:

Founded in 1967, **Action on Smoking and Health (ASH)**, an organization with ECOSOC Status, is the United States' oldest organization devoted to fight the harms caused by tobacco, both in the US and globally, and dedicated to a world with zero tobacco deaths. ash.org

60 Kindernothilfe, terre des hommes 2018: It's Time to Talk! – Children's Views on Children's Work. Online: time-to-talk.info/wp-content/uploads/2018/05/T2T_Report_EN.pdf, accessed 10.01.2020.
Swedwatch 2016: Smokescreens in the Supply Chain.
Human Rights Watch 2016: The Harvest is in my Blood.
Human Rights Watch 2018: A Bitter Harvest.

The **Berlin Working Group on Environment and Development (BLUE 21)** with its project **Unfairtobacco** exposes how the tobacco industry harms farmers, consumers and the environment. The project was recognized with a WHO World No Tobacco Day Award in 2017. unfairtobacco.org

Since more than 45 years **Deutsches Kinderhilfswerk (German Children's Fund)** lobbies for a child-friendly society, combats child poverty and supports initiatives promoting the participation of children and adolescents. Its work aims at the full implementation of the UN CRC in Germany. dkhw.de

The **European Network for Smoking and Tobacco Prevention (ENSP)** was founded in 1997. It aims to create greater coherence among smoking prevention activities and to promote comprehensive tobacco control policies at national and European levels. ensp.network

Frauen aktiv contra Tabak (FACT e.V.) – Women Against Tobacco was founded in 2006 by women tobacco control leaders. FACT e.V. distributes information regarding women tobacco issues and supports the development of women-centered tobacco use prevention and cessation programs. fact-antitabak.de

The human rights organization **Friedensband** is primarily committed to children's rights, including children who get sick on tobacco plantations and children who are seduced by tobacco advertising. friedensband.de, nikotinkinder.de

The **German Cancer Research Center (DKFZ)** is the largest biomedical research institute in Germany. Its more than 3,000 employees, of which more than 1,200 are scientists, are investigating the mechanisms of cancer, are identifying cancer risk factors and are trying to find strategies to prevent people from getting cancer. dkfz.de

The **German Centre for Addiction Issues e.V. (DHS)** has the aim of informing people about addiction-related problems, advising them and drawing their attention to support provision. dhs.de

The **German Lung Foundation** was founded in 1994 by members of the German Respiratory Society and aims to improve the situation of patients with lung diseases. lungenstiftung.de

The **German NCD Alliance DANK** unites 23 medical organisations such as German Diabetes Association, German Cancer Society, German Obesity Association and Association of General Practitioners. dank-allianz.de

The **German Network for Tobacco free Healthcare Services (Deutsches Netz Rauchfreier Krankenhäuser & Gesundheitseinrichtungen)** supports healthcare services to implement comprehensive tobacco control according international standards. Its members are healthcare services and the network collaborates with other organizations in tobacco control. dnrfk.de

The **German Respiratory Society (DGP)** promotes the prevention, treatment, care and rehabilitation in pulmonology by fostering scientific research, professional exchange, education, guidelines and more. pneumologie.de

The **German Society of Pediatric Allergology (GPA)** supports the scientific research and the professional exchange of pediatricians and their interests in Allergology and Environmental

Health. In addition the GPA promotes preventive informations for children and parents in these fields. gpau.de

The purpose of **Health Care Plus – Collaboration, Coordination, Sharing and Learning** is to establish and coordinate networks to create, share and disseminate good practice in health promotion, health literacy and quality in health care service.

The **Institute for Therapy and Health Research (IFT-Nord)** is a non-profit organization located in Kiel, Germany. Core objective is the promotion of public health. ift-nord.de

Kindernothilfe (Supporting children in need) is a Christian children's rights organization that operates since 1959 and currently reaches more than 2.1 million children and youth on four continents through development collaboration. Our work is anchored in the UN CRC and we focus particularly on children at risk. kindernothilfe.de

Smokefree Partnership (SFP) is a European coalition of nearly 50 public health and tobacco control NGOs working to promote tobacco control advocacy and policy research at EU and national levels in collaboration with other European health and tobacco control organisations. smokefreepartnership.eu

Vivantes Hospital holding is owned and lead by the Berlin Senate, combines 8 community hospitals, 20 senior residences and nursing units, hospices and general practices all over Berlin serving more than 500.000 in- and outpatients each year. vivantes.de

VIVID – Institute for the Prevention of Addiction is an Austrian institution, based in the federal state Styria. Its focus is the prevention of addiction in general and it was nominated for the EU Health Award 2018 for its tobacco prevention work. vivid.at