

Children's Rights and Tobacco Control in Germany

Additional Information to the UN Committee on the Rights of the Child

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Federal Republic of Germany

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This statement 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, German Cancer Research Center (DKFZ), German Lung Foundation, German Network for Tobacco free Healthcare Services (DNRfK), Health Care Plus, Kindernothilfe (Supporting Children in Need), Smokefree Partnership (SFP), Vivantes Hospital, VIVID – Institute for the Prevention of Addiction.

Tobacco consumption in Germany

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

Government response to question 10. (d) Address the disproportionate prevalence of drug, alcohol and tobacco use among socioeconomically disadvantaged children;

Although the German government “believes in effective preventive measures [...] to prevent the consumption of [...] tobacco products among minors in general”¹, it still does not consider significant tobacco tax increases. Tobacco tax increases have proven to be particularly effective in preventing children and youth from smoking uptake and in supporting socio-economically disadvantaged people to quit smoking.² In spring 2021, Olaf Scholz, then Minister of Finance, introduced the raise of tobacco taxes in a very quick and unexpected move. Unfortunately, the increase in tobacco taxes is far too low to have meaningful effects on public health and the regulation has been defined for the coming 5 years.³

In September 2021, the Tobacco Industry Interference Index again exposed tobacco companies' influence on policy-making processes in Germany, this time especially concerning the mentioned law amendment on tobacco taxes. The government's protection of public health policy-making from tobacco industry influence is still inadequate, even though this is required by Article 5.3 of the WHO FCTC.⁴

1 CRC/C/DEU/RQ/5-6

2 WHO 2010: WHO technical manual on tobacco tax administration, Geneva: WHO, www.who.int/tobacco/publications/tax_administration/en/

3 German Ministry of Finance 2021: Tobacco Duty Modernisation Act adopted. Berlin, <https://www.bundesfinanzministerium.de/Content/EN/Pressemitteilungen/2021/2021-03-24-tobacco-duty-modernisation-act.html>.

DKFZ 2021: Stellungnahme des Deutschen Krebsforschungszentrums zum Entwurf eines Gesetzes zur Modernisierung des Tabaksteuerrechts. Berlin, <https://www.bundestag.de/resource/blob/841924/7ca044a737a2579ab5689af09bb1ecb9/04-Dkfz-data.pdf>.

4 Laura Graen 2021: Tobacco Industry Interference Index Germany 2021, Berlin, <https://globaltobaccoindex.org/upload/assets/OzT1i3KB4uw2TEI3Dj3j19SAsw1CbzJAZepU42sb2o0303XC75.pdf>.

In January 2022, the tobacco advertisement ban went into force⁵ and ads for cigarettes disappeared from the streets. We very much welcome this improvement in tobacco control. Nevertheless, we would like to emphasize that the new law does not cover advertisements at the point of sale nor promotion activities nor sponsorships. Therefore, the existing ban still does not comply with obligations under Article 13 of the WHO Framework Convention on Tobacco Control (WHO FCTC).⁶

Although the government explains, the “activities of the “Addiction Prevention” division of the BZgA also target socio-economically disadvantaged families”⁷, there is no recent evaluation whether these programs reach the respective target groups in a significant way.

More than 50 civil society organisations have drawn up a Strategy for a tobacco-free Germany 2040. This strategy offers a timeline and 10 public health measures to policy makers in order to reduce death and disease from tobacco use.⁸ The strategy also addresses socio-economic inequalities, explicitly demands to consistently implement children’s rights with regard to tobacco and improve the protection of minors (M 6) as well as the evaluation of all measures, e.g. addiction prevention programs (M 10).

Recommendations

To reduce the disproportionate prevalence of tobacco use among socio-economically disadvantaged children, the undersigned organisations recommend that the UN Committee calls on the German federal government to:

- Improve the tobacco advertising ban and close the gaps (comprehensive ban on point-of-sale advertising, promotion and sponsorship),
- Adjust the law amendment on tobacco taxes in order to have a significant impact on public health, and
- Develop a comprehensive tobacco control strategy to implement the WHO FCTC to advance the children’s rights to life and health as well as the best interest of the child, as required by CRC General Comments No. 15 and 16.

Mary Assunta 2021: Global Tobacco Industry Interference Index 2021, Bangkok: Global Center for Good Governance in Tobacco Control, globaltobaccoindex.org.

5 Zweites Gesetz zur Änderung des Tabakerzeugnisgesetzes, Bundesgesetzblatt Teil I, Nr. 48 (28. Oktober 2020): 2229. Berlin.

Tabakerzeugnisgesetz. <https://www.gesetze-im-internet.de/tabakerzsg/index.html#BJNR056910016BJNE005100116>

6 World Health Organization (WHO) 2003: WHO Framework Convention on Tobacco Control (FCTC), Geneva: WHO, apps.who.int/iris/bitstream/10665/42811/1/9241591013.pdf?ua=1

WHO 2008: Guidelines for implementation of Article 13 of the WHO Framework Convention on Tobacco Control (Tobacco advertising, promotion and sponsorship), Geneva: WHO, www.who.int/fctc/guidelines/article_13.pdf.

7 CRC/C/DEU/RQ/5-6

8 DKFZ 2021: Strategy for a tobacco-free Germany 2040. Heidelberg, https://www.dkfz.de/de/tabakkontrolle/2021_Strategy-for-a-tobacco-free-Germany-2040_dp.pdf.

Child labour in tobacco supply chains – extraterritorial obligations CRC Article 32

Government response to question 3. (a) Strengthen the regulatory framework for businesses to ensure that their activities, including their global supply chains, do not have adverse impacts on children’s rights;

In June 2021, Germany adopted a due diligence law to improve the adherence of human and children’s rights in supply chains.⁹ It will come into force in 2023. We very much appreciate this new law as an important step against children’s rights violations and child labour.

Nevertheless, the law has essential shortcomings and is partially not compatible with the UN Guiding Principles on Business and Human Rights.¹⁰ This concerns e.g. the preventive character of the UNGP, the number of companies covered, the participation of affected stakeholders in the due diligence process and the remediation for affected parties.

Recommendation

The undersigned organisations recommend that the UN Committee calls on the German federal government to

- Improve and strengthen the new due diligence law to be suitable for holding companies accountable for children’s rights violations in their global supply chains, as required by CRC General Comment No. 16.

⁹ Lieferkettensorgfaltspflichtengesetz, <https://www.gesetze-im-internet.de/lksg/>.

¹⁰ Initiative Lieferkettengesetz 2021: Analysis – What the new Supply Chain Act delivers – and what it doesn’t. Berlin, https://lieferkettengesetz.de/wp-content/uploads/2022/04/Initiative-Lieferkettengesetz_Analysis_What-the-new-supply-chain-act-delivers.pdf.
Initiative Lieferkettengesetz 2021: FAQ on Germany’s Supply Chain Due Diligence Act. Berlin, https://lieferkettengesetz.de/wp-content/uploads/2021/11/Initiative-Lieferkettengesetz_FAQ-English.pdf.