

Report on the Rights of the Child and Tobacco in Spain

Application of the Convention on the Rights of the Child to tobacco control and protection from nicotine in Spain

1. Executive Summary

The increasing affordability of cigarettes and the marketing of new nicotine products are among the main threats to child and adolescent health in Spain. Despite progress since the entry into force of Law 28/2005, tobacco continues to violate fundamental rights recognized in the [Convention on the Rights of the Child](#), particularly Articles 3 (best interests of the child), 6 (right to life, survival and development), and 24 (right to the enjoyment of the highest attainable standard of health).

Available evidence shows that the exposure of minors to tobacco and related products persists, both in its traditional form and in new consumption modalities. Digital marketing campaigns, the accessibility of electronic cigarettes and other devices, and the lack of effective enforcement of current legislation contribute to a concerning normalization of consumption.

This report analyses the degree to which the Spanish State complies with its obligations under the Convention on the Rights of the Child and the WHO Framework Convention on Tobacco Control, identifies key current challenges, and offers concrete recommendations to ensure the effective protection of the rights of children and adolescents from tobacco and nicotine.

2. Human Rights Framework and State Obligations

Tobacco control is not only a public health policy but also a legal obligation derived from human rights. The Convention on the Rights of the Child, ratified by Spain in 1990, establishes in Article 24 the right of all children to the highest attainable standard of health and obliges States to adopt effective measures against practices harmful to their well-being.

Article 3 enshrines the principle of the best interests of the child, which must prevail over any other interest, including economic or commercial ones. Protecting minors from exposure to tobacco products, nicotine, and their residues—especially smoke and aerosols—is part of the essential content of this obligation.

Article 6 guarantees the right to life, survival, and development, rights directly threatened by premature deaths and diseases caused by active or passive smoking.

The Committee on the Rights of the Child, in its [General Comment No. 15](#), stresses that States must prevent tobacco consumption and protect children from second-hand smoke. These

obligations are complemented by the Framework Convention on Tobacco Control, ratified by Spain in 2004, which requires the implementation of comprehensive measures of prevention and protection of public policies from tobacco industry interference.

At the European level, [Directive 2014/40/EU](#) regulates the manufacture, presentation and sale of tobacco and nicotine products, including heated tobacco devices and electronic cigarettes. Spain transposed this directive into national law through [Royal Decree 579/2017](#), although it missed the opportunity to adopt more advanced measures to strengthen the protection of minors.

Spain's Seventh Periodic Report to the Committee on the Rights of the Child acknowledges progress in child health but does not mention the impact of tobacco or the rise in the use of electronic cigarettes and other nicotine-containing devices among children and adolescents. This omission reveals a lack of integration of a child-rights-based approach in tobacco control policy.

3. Evidence and Current Situation in Spain

3.1. Prevalence and trends in youth consumption

According to the [Ministry of Health's ESTUDES 2025 Survey](#), 27.3% of adolescents aged 14 to 18 have smoked at least once, 21.2% did so in the last 12 months, and 15.5% in the last month. In addition, 49.5% have used electronic cigarettes at least once, placing Spain among the European countries with the highest prevalence of youth vaping.

The rise of nicotine-delivery devices and related products is driven by marketing strategies promoting the false idea of reduced risk, supported by attractive flavors and technological designs that appeal more to children and adolescents. Their availability in everyday environments and covert advertising on social media reinforce their appeal.

The prevalence of tobacco and vaping among adolescent girls is increasing, linked to messages that associate vaping with body image and weight control, as highlighted by the WHO European Office in its report on young people and new nicotine products.

3.2. Exposure to smoke and aerosols

Although Spanish law prohibits smoking in most indoor public spaces, children's exposure to smoke and aerosols remains high in certain indoor environments and in outdoor public areas. The 2023 National Health Survey reveals that more than 25% of individuals aged 15 to 24 are exposed to tobacco smoke in the home or in family vehicles.

Aerosols from electronic cigarettes contain nicotine and heavy metals that affect lung and neurological development. Failure to act against this domestic exposure violates the duty of protection established in Articles 3 and 24 of the Convention.

3.3. Economic and social impact

Tobacco is a structural driver of poverty. According to the National Statistics Institute, Spanish households with minors spend on average around €900 per year on tobacco products. In low-income families, this can represent up to 6% of their household budget, diverting essential resources from food or education.

[The National Committee for Smoking Prevention](#) estimates that smoking generates over €9 billion annually in healthcare costs—three times the tax revenue from tobacco.

These data show that tobacco consumption has a direct impact on equity, child health, and social and economic development.

4. Increasing Affordability of Tobacco in Spain

[According to the WHO](#) and the [National Committee for Smoking Prevention](#), raising tobacco prices is one of the most effective and cost-effective measures to reduce consumption. However, Spain continues to have significantly lower tobacco prices than neighboring countries such as France or Portugal, facilitating youth access and weakening prevention policies. Additionally, in the last eight years, tobacco has become 13% more affordable because inflation-adjusted prices for cigarettes and rolling tobacco fell by 3.5%, while real per-capita income increased.

The main factor is the erosion of the real value (inflation-adjusted) of minimum excise taxes, [which decreased by 12.6%](#), while the Ministry of Finance has increased the number of retail licenses. This harms public health, as increased affordability disproportionately affects young people, who are more price-sensitive.

Results suggest that Spain must urgently introduce a substantial increase in minimum taxes. The EU is also encouraged to revise its tax directive to include automatic inflation adjustments.

5. New products and market tactics

The tobacco industry has diversified its offer with new-generation products—electronic cigarettes, heated tobacco, nicotine pouches, and herbal devices—marketed as “safer alternatives.” These strategies rely on a “harm-reduction” narrative that the UN Special Rapporteur on the Right to Health considers misleading and contrary to public health principles.

The real objective of the industry is to maintain nicotine addiction and recruit new consumers among children and adolescents. Technological designs, social media presence, and influencer promotion normalize their use.

Spain still lacks a regulatory framework tailored to these products. There are no effective restrictions on flavors, online sales or digital advertising, contradicting Article 13 of the Framework Convention on Tobacco Control.

6. Digital advertising and promotion

Despite the bans in Law 28/2005, covert advertising of tobacco and nicotine products remains widespread on social media. Influencers and content creators promote products through commercial collaborations or giveaways, exploiting legal loopholes.

The Spanish Association Against Cancer (AECC) report ["\(In\)visible Strategies on Social Media: Tobacco and Nicotine"](#) documents constant exposure to such messages on Instagram, TikTok and YouTube, targeting young people, despite many of these tactics being prohibited.

Social media has become a key channel for indirect promotion. Continuous exposure to positive vaping messages normalizes consumption and reduces risk perception, violating minors' right to receive truthful and health-appropriate information under Article 17 of the Convention on the Rights of the Child.

Other countries have made progress. France's **Influencer Law (2023)** explicitly prohibits any influencer from promoting nicotine products, regardless of follower count—even if addressing French audiences from abroad—representing good practice.

Effective public health protection urgently requires agile and coherent legislation that aligns restrictions for traditional tobacco with those for derivatives and all nicotine products across all channels. It is essential to establish effective sanctions and encourage civil-society monitoring to counteract normalization among young people.

7. Industry interference and gaps in law enforcement

The graphic report by Nofumadores.org, ["Evidence of Non-Compliance with the Tobacco Law."](#) documents numerous violations of children's and youth rights: sales of nicotine products in candy shops, petrol stations and street markets; exposure of minors to advertising visible from outside tobacconists; sales through delivery platforms; and the presence of brands at festivals and sporting events.

These practices highlight deficiencies in regulatory enforcement due in part to insufficient administrative oversight and the lack of sanctions under Law 28/2005, as well as legal loopholes that must be urgently addressed.

This is unsurprising given that the [Ministry of Finance, through its Market Commissioner, maintains an institutionalized presence of the tobacco industry within government structures.](#)

The persistence of advertising inside tobacconists and the sale of unregulated products in vending machines and online demonstrate the need to strengthen monitoring, inspections and sanctions. Effective enforcement of Law 28/2005 depends not only on written rules but on practical implementation, especially in digital environments.

8. Environmental impact

The environmental impact of tobacco and new nicotine products severely violates children's rights. Cigarette butts and disposable electronic devices generate massive volumes of toxic, non-biodegradable waste. According to the report [“Plain Packaging: Evidence and Environment”](#) by Nofumadores.org and the Aragonese Society for a Tobacco-Free Environment (SALT), more than 13 billion cigarette butts are generated annually in Spain, polluting public spaces with microplastics and heavy metals. Added to this is the environmental threat posed by lithium batteries from disposable vapes.

This pollution violates children's right to a healthy environment (Articles 6 and 24 of the Convention on the Rights of the Child). The government has attempted to require producer responsibility through Royal Decree 579/2024. Although it introduces extended producer responsibility, its effectiveness is compromised by allowing tobacco companies themselves to manage the waste their products generate. The industry has used this regulation to create a façade of environmental responsibility through the entity [ÁVORA](#). Composed of nine tobacco companies and one distributor, ÁVORA conducts greenwashing campaigns targeting young people. Through actions like distributing portable ashtrays in leisure areas, the tobacco industry projects an image of environmental responsibility attractive to new generations, shifts blame onto consumers and barely addresses the root of the problem, which the government overlooks.

Aligning with the Sustainable Development Goals requires eliminating plastic filters and banning disposable vapes. It is also urgent to halt the hypocrisy of an industry that poisons children with both old and new products while massively polluting the planet, all while pretending to be environmentally conscious—a greenwashing tactic designed to appeal to a generation concerned about the environment.

9. Legislative analysis and compliance with the FCTC

Spain has achieved important progress in reducing tobacco consumption since 2005, but current legislation shows significant gaps in regulating new products and ensuring comprehensive child protection.

Law 28/2005 and its 2010 amendment established an effective framework against smoking in public spaces, but do not address electronic cigarettes or heated tobacco.

[The Comprehensive Tobacco Prevention and Control Plan 2024–2027](#) acknowledges these challenges but lacks an explicit child-rights-based approach.

Full compliance with the Framework Convention on Tobacco Control requires moving toward:

- Implementing fiscal and, where appropriate, price policies for tobacco and nicotine products that contribute to health goals aimed at reducing consumption.
- Excluding the tobacco industry from any health or environmental initiative.
- Imposing obligations on the tobacco industry to compensate society, through the government, for the harm caused to public health and the environment.
- Plain packaging, following the evidence presented in *“Plain Packaging: Evidence and Environment.”*
- Expanding smoke- and vape-free areas to hospitality business terraces, beaches, parks, educational environments and places frequented by minors.
- Eliminating vending machines and restricting sales to tobacconists or specialized points of sale.
- Regulating digital advertising, covert sponsorships and cross-border sales, which remain insufficiently controlled.

10. Conclusions and Recommendations

Tobacco and new nicotine products structurally violate children's rights in Spain. Persistent youth consumption, passive exposure to smoke and aerosols, industry interference and legal loopholes hinder effective compliance with Articles 3, 6 and 24 of the Convention on the Rights of the Child.

Recommendations:

We respectfully encourage the Committee to urge the Government of Spain to:

1. **Substantially increase taxes on tobacco and all nicotine products**, and introduce a minimum excise price to reduce affordability among minors.
2. **Restrict sales exclusively to tobacconists and specialized shops**; eliminate vending machines and reduce the number of state-licensed retail points.

3. **Reform the Tobacco Market Commissioner and the Tobacco Market Law**, removing all industry participation and establishing an institutional firewall, in accordance with Article 5.3 of the FCTC.
4. **Integrate tobacco and nicotine protection in the 2023–2030 National Strategy on Children and Adolescents**, adopting a clear rights-based approach.
5. **Reform Law 28/2005** to include electronic cigarettes, heated tobacco, nicotine pouches and explicit protection of minors' right to smoke- and aerosol-free environments.
6. **Adopt plain packaging for all tobacco and nicotine products.**
7. **Extend smoke- and vape-free areas to hospitality business terraces, beaches, pools, parks, schools, public transport stops, sports venues, outdoor events and all child-frequented spaces**, both indoors and outdoors.
8. **Prohibit all forms of advertising, sponsorship, promotion and marketing**—including on social media, via influencers or covert advertising, as well as point-of-sale promotion.
9. **Strengthen inspection and sanction mechanisms**, including digital monitoring, control of online sales and supervision in child- and adolescent-frequented environments.
10. **Develop a National Plan on Children and Tobacco** aligned with the FCTC and human rights principles.
11. **Include specific indicators** on children and tobacco in national FCTC reports to enhance accountability.
12. **Guarantee the participation of children and adolescents** in the design, implementation and evaluation of tobacco and nicotine control policies.
13. **Develop educational campaigns for minors and families**, providing accurate information about the risks of all recreational nicotine products and countering industry marketing strategies.
14. **Implement prevention programs on tobacco and recreational nicotine products** in school settings from early primary education.

These measures will allow Spain to fulfill its international commitments and advance toward a tobacco- and nicotine-free generation. It should be recalled that this goal of a “tobacco-free generation” by 2040 is a key ambition of the [BEU's Beating Cancer Plan](#), which aims for less than 5% of the European population to use tobacco. Its adoption will contribute to protecting children’s fundamental rights and reinforcing the coherence of national policies with the international treaties ratified by the State.

Signed,

Action on Smoking and Health

A Non Smoking Generation

Advocacy Center “LIFE”

AEACaP-Asociación Española de Afectados de Cáncer de Pulmón

Alleanza per un'Italia senza tabacco (Alliance for a tobacco-free Italy)

Alliance of jordanian universities against tobacco and smoking

APTA (Asociación para la Prevención del Tabaquismo en Aragón)

Arizonans Concerned about Smoking, Inc.

ASH Canada

ASH Scotland

Asociación Española de Pacientes con EPOC y familiares. APEPOC

ATAEX

BLUE 21 / Unfairtobacco

Cancer Patients Europe

Cedro - Centro de Información y Educación para la Prevención del Abuso de Drogas

Centro de promoción en salud y asistencia familiar/CEPROSAF

Chile Libre de Tabaco

CLAS - Coalition for Americas' Health

CNPT(Comité Nacional para la Prevención del Tabaquismo)

Colegio Oficial de Dentistas de Santa Cruz de Tenerife

Comité national contre le tabagisme, CNCT

Contre-feu, l'alliance contre l'industrie du tabac

Corporate Accountability

Costa Rica Saludable

DNF-Demain sera Non-Fumeur

Dominicana Saludable

FACUA

FAECAP (Federación de Asociaciones de Enfermería Familiar y Comunitaria)

Fundación Alejandro da Silva contra la Leucemia

Fundación Anáas

Fundacion Bolivia Saludable

Fundación Canaria Dental

FUNDACIÓN FAD JUVENTUD

Fundación Lovexair

nofumadores.org



asociación
española
contra el cáncer



Centre collaborador
de l'OMS per al Control del Tabac



Fundación MÁS QUE IDEAS

Fundación Meniños

Gracias No Fumo SC

Health Funds for a Smokefree Netherlands

Institut Català d'Oncologia

Kenya tobacco control alliance

Malaysian Women's Action for Tobacco Control and Health (MyWATCH)

Mas Que Farmacia ORG

NEUMOCAN (Asociación Canaria de Neumología y Cirugía Torácica)

NHMRC Centre of Research Excellence on Achieving the Tobacco Endgame

Nofumadores.org

Pacientes Alto Costo

Red Nacional Antitabaco

Scatt

Semfyc

SITAB (Società Italiana di Tabaccologia - Italian Society of Tobaccology)

Slovenian Coalition for Public Health, Environment and Tobacco Control

Smokefree Air For Everyone (SAFE)

Sociedad Aragonesa Libre de Tabaco

Sociedad Vasco Navarra de prevención del tabaquismo. Aireberri

Southeast Asia Tobacco Control Alliance (SEATCA)

Swiss Association for Tobacco Control

Tanzania Tobacco Control Forum

The Ricky Rubio Foundation

Tobacco Control Alliance of Georgia

Universidad de Salamanca

Vital Strategies

www.aerzteinitiative.at

XQNS Initiative to improve the Tobacco Law in Spain