

Tobacco and Children's Rights in Colombia

I. Summary

1. Tobacco is the world's leading cause of preventable death and is therefore a considerable obstacle to the right to health in Colombia (PAHO, *Tobacco Control*).
2. In Colombia, tobacco use is among the most problematic consumptions in society — one out of three Colombians has smoked at least once in their lifetime. Each year, more than 34,800 people die from diseases attributable to tobacco use, most of them at a high cost to the health system (over USD 4.3 billion), with severe impacts on patients and their families (Ministry of Health, 2023).
3. Although tobacco consumption has declined in recent years, there are still around 4.5 million tobacco users in Colombia (Maldonado et al., 2022).
4. At the same time, there has been a worrying increase in the use of emerging products, particularly among adolescents and youth. According to the DANE Quality-of-Life Surveys (ECV), between 2021 and 2024 the use of these products has doubled in this population (DANE, 2021–2024).
5. Although Colombia has adhered to the WHO Framework Convention on Tobacco Control (FCTC) and has adopted legislation extending control measures to emerging products, the country has not effectively implemented key provisions such as the comprehensive ban on advertising, promotion and sponsorship, enforcement of smoke-free and aerosol-free environments, and restrictions on sales to minors, especially through on-demand delivery platforms.
6. This situation represents a human rights challenge, disproportionately affecting children and adolescents, the population segment where consumption of emerging products is growing most rapidly (DANE, 2021–2024) (Ministry of Justice – Drug Observatory (ODC) & Ministry of Education, 2022).
7. For this reason, it is urgent that Colombia adopts specific measures to ensure the effectiveness of tobacco control policies to confront this epidemic.

II. Relevant Facts and Statistics

1. According to the Quality-of-Life Survey by DANE, between 2016 and 2024 the percentage of smokers (prevalence) decreased from 8.3% to 5.7% (DANE, 2016–2024), which represents about one million fewer smokers (Ministry of Health, 2023).
2. It is estimated that there are currently around 4.5 million tobacco users in the country. (Maldonado et al., 2022).
3. The use of emerging products among adolescents and youth has increased, with data showing that their consumption has more than doubled between 2021 and 2024 (DANE, *Quality of Life Survey*). Nicotine use among school-aged children has shown a significant increase, with higher monthly prevalence among girls — **211,000 out of the 392,000 identified cases** (ages 12–18). (Llorente, 2025)
4. According to the National Survey on Psychoactive Substance Use in the School Population (Ministry of Justice – Drug Observatory (ODC) & Ministry of Education, 2022):
 - 4.1. 11.1% of students have smoked tobacco or cigarettes at least once in their lifetime. This percentage is higher among boys (11.4%) compared to girls (10.8%).
 - 4.2. Consumption increases with age, rising from a monthly prevalence of 2.6% among schoolchildren aged 12 to 14 years to 8.7% among older schoolchildren (17–18 years).

- 4.3. 22.7% of schoolchildren have tried electronic cigarettes or heated tobacco products, that is, cigarettes consumed through electronic devices or vaporizers, at least once in their lifetime (22.1% of boys and 23.2% of girls).
- 4.4. 11.2% of students reported current use of electronic cigarettes or heated tobacco products, with prevalence higher among girls (11.6%) compared to boys (10.8%).
- 4.5. The use of these products (e-cigarettes or heated tobacco products) increases with age, from a monthly prevalence of 8.3% among students aged 12–14 to 14.8% among those aged 17–18.
- 4.6. By grade level, a similar trend is observed: 7th grade 7.4%, 10th grade 14.5% (peak), and 11th grade 13.9%.
- 4.7. The average age at which schoolchildren start using tobacco through electronic devices or vapes is 14.1 years. For boys, this age is 14.3 years, slightly later than for girls, who on average start at 14 years. The 15% of schoolchildren who have ever used these devices to consume tobacco did so for the first time at age 14 or younger.
5. This increase in consumption is closely correlated with the rise in e-cigarette imports to Colombia. Between 2022 and 2024, e-cigarette imports increased by about 17%, rising from approximately 6.4 million to 7.5 million units. This represents around 1.1 million additional units, reflecting the sustained expansion and growing availability of these products in the national market (DANE, IMPO 2012–2024).

III. Legal Framework

Legislation

1. Constitution of Colombia:
 - 1.1. Article 11: Right to life.
 - 1.2. Article 44: Fundamental rights of children, including the right to health and to protection against all forms of neglect and abuse (children’s rights prevail over the rights of others). (According to this provision, the State must protect children from any form of violence or risk that may impair the enjoyment of their rights. Contact with, and the consumption of, psychoactive substances are understood to threaten and/or undermine those rights).
 - 1.3. Article 49: Right to health; the State’s duty to organize, direct, and regulate health services and to promote public health.
2. Law 12 of 1991, which incorporates the Convention on the Rights of the Child (CRC) into Colombian legislation:
 - 2.1. Article 24: Right of the child to the enjoyment of the highest attainable standard of health.
 - 2.2. Article 17: States Parties shall ensure children’s access to information and material from diverse sources, especially those that promote their well-being and health.
3. Law 1098 of 2006: Childhood and Adolescence Code, which recognizes the right of children and adolescents to be protected against tobacco and psychoactive substances, among others.
 - 3.1 Article 20.3 establishes that children and adolescents must be protected from the consumption of tobacco, psychoactive substances, and alcohol, as well as from any participation in their promotion, production, or distribution. (Under this provision, Colombia is required to adopt adequate measures to ensure that children are not exposed to, nor come into contact with, psychoactive substances).

4. Law 1109 of 2006, which incorporates the WHO Framework Convention on Tobacco Control (FCTC) into Colombian legislation: Instrument with constitutional rank as part of the *constitutional block* in Colombia.
Constitutional Court Judgment C-665 of 2007: In the context of the WHO FCTC, the Court held that tobacco control measures are constitutionally justified as they protect public health and the environment for current and future generations (Colombian Constitutional Court, Judgment C-665 of 2007).
5. Law 1335 of 2009: Main tobacco control statute, smoke-free environments, PAPS, sales restrictions, among others. (Under this provision, Colombia must take special care to protect children and prevent them from coming into contact with these substances).
Constitutional Court Judgment C-830 of 2010: Declares that the **total prohibition of tobacco advertising, promotion and sponsorship** is **constitutionally valid**, as such restrictions pursue an overriding public health interest and are compatible with economic freedoms when aimed at protecting the right to health, particularly of children and adolescents. (**Colombian Constitutional Court, Judgment C-830 of 2010**).
6. Law 1816 of 2016: Establishes the formula for taxing conventional cigarettes. (Although this law establishes a mechanism to increase tobacco product tariffs, Colombia must, in order to meet adequate protection standards, triple the applicable tax and impose specific excise taxes on emerging products.)
7. Law 2354 of 2024: Modifies Law 1335 of 2009 and expands and updates control measures to emerging products. (There have been no effective actions, nor any meaningful educational efforts, aimed at securing compliance with the rule. Consequently, Colombia finds itself in a situation where its legal framework meets the required standard, but the reality does not.)
 1. Resolution 1956 of 2008 – Ministry of Health and Social Protection: Establishes restrictions on smoking in public and enclosed spaces, defining smoke-free areas and requiring the delimitation and signage of permitted and prohibited zones for tobacco use (Ministry of Health and Social Protection, Resolution 1956 of 2008).
 2. Resolution 3961 of 2009. Ministry of Health and Social Protection: Establishes the mandatory packaging and health warning requirements for all tobacco products marketed in Colombia, as part of the State’s obligation to regulate presentation and consumer information to protect public health (Ministry of Health and Social Protection, Resolution 3961 of 2009).
 3. Resolution 624 of 2025. Ministry of Health and Social Protection: Adopts the manual for signage of environments 100% free of tobacco smoke and aerosols, as a measure to protect public health by ensuring visibility and enforcement of smoke-free spaces (Ministry of Health and Social Protection, Resolution 624 of 2025). (At present, no specific measures have been adopted to ensure compliance with this provision. As a result, it has not been made fully effective. There remains a significant gap between the normative mandate and the actual situation.)

Although Colombia has a robust regulatory framework, there are no actions specifically directed at ensuring its effective enforcement. A noticeable gap between the legal norm and its implementation persists, and it warrants careful review.

Instruments that guide the interpretation of legal provisions

8. CRC General Comment No. 4 on Adolescent Health and Development (2003) (*interpretive guidance; not of constitutional rank in Colombia*):
 - 8.1. The Committee expresses concern about the influence of marketing of harmful products and unhealthy lifestyles on adolescents' health behaviours.
 - 8.2. Pursuant to Article 17 CRC, States should protect adolescents from information harmful to their health and development while emphasizing their right to appropriate information.
 - 8.3. States are urged to regulate or prohibit information and marketing related to substances such as alcohol and tobacco, especially when directed at children and adolescents.
9. CRC General Comment No. 15 (2013) (*interpretive guidance; not of constitutional rank in Colombia*): **Recognizes that States must** protect children from exposure to tobacco and other harmful substances **and adopt** regulatory measures to restrict advertising, promotion and sale **of such products in spaces and media accessible to children** (Committee on the Rights of the Child, General Comment No. 15, 2013).
10. IACHR – REDESCA, *Business and Human Rights: Inter-American Standards* (2019); Paragraphs 359–361 reaffirm that States must regulate and oversee business activities involving harmful products, including tobacco, to prevent adverse human rights impacts. The report highlights the heightened obligation to protect children and adolescents from such risks (Inter-American Commission on Human Rights, *Business and Human Rights: Inter-American Standards*, 2019)
11. IACHR – REDESCA, *Noncommunicable Diseases and Human Rights in the Americas* (2023); Paragraph 220 stresses that commercial determinants of health—such as tobacco products and related marketing—require strict State regulation to prevent exposure and protect children's and adolescents' rights (Inter-American Commission on Human Rights, *Noncommunicable Diseases and Human Rights in the Americas*, 2023)
12. United Nations – Sustainable Development Goal 3 (2015); Target 3.a calls on States to strengthen the implementation of the WHO Framework Convention on Tobacco Control (FCTC), underscoring the global obligation to reduce exposure to tobacco and protect children's and adolescents' health (United Nations, *Sustainable Development Goal 3, Target 3.a*, 2015).

IV. Special Concerns

1. Colombia has adhered to the FCTC but has not regulated Article 5.3, which aims at preventing interference by the tobacco industry in public health decision-making.
2. Although Colombia has adopted specific control measures on tobacco and emerging products, the country remains behind in two key areas: (i) tripling tobacco taxes to effectively achieve public health objectives, and (ii) adopting specific taxes on emerging products.
3. The expansion of digital marketing, influencer promotion, and social-media sales—often carried out without age verification—exposes minors to persuasive techniques that normalize consumption and foster brand loyalty. These weaknesses undermine the protective intent of existing laws and negatively affect children's rights to health, reliable information, and protection from harmful commercial exploitation, requiring urgent and effective State action.
4. Lack of effective implementation of bans on advertising, promotion, and sponsorship (APS), which facilitates the availability and accessibility of emerging products.
5. Renormalization of consumption in environments legally designated as smoke-free and aerosol-free.

6. The availability of flavored products (such as menthol, fruit, and candy) and the use of appealing product and packaging designs enhance their attractiveness and drive consumption among children and adolescents.
7. Tobacco and emerging products have become highly affordable, making them easily accessible to children and adolescents.
8. While the Superintendence of Industry and Commerce imposed sanctions against e-cigarette importers, it has adopted no measure aimed at enforcing controls on emerging products.
9. For nearly ten years, the Council of State has not issued a decision regarding the annulment of the Superintendency of Industry and Commerce's interpretation that the APS prohibitions under Law 1335 of 2009 did not apply to heated tobacco products.
10. At the same time, despite existing APS bans, tobacco and e-cigarette companies continue to engage in promotional activities— including brand presence at concerts, festivals, and public events accessible to minors— which increases youth exposure and undermines tobacco control efforts.

V. Recommendations

1. Colombia should strengthen institutional and enforcement mechanisms to guarantee full compliance with the bans on advertising, promotion, and sponsorship (APS) of tobacco and emerging products.
2. Colombia should adopt, regulate, and enforce measures to implement Article 5.3 of the FCTC, ensuring protection of public health policies from tobacco industry interference
3. Adopt specific regulatory and enforcement measures to make existing control policies effective, with priority on emerging products.
4. The National Government should conduct regular monitoring and evaluation of implementation and compliance (including systematic market surveillance of online channels).
5. Verify and assess the impact of measures on consumption trends, particularly among children and adolescents, and publish periodic results.
6. Strengthen enforcement of restrictions on advertising, promotion, sponsorship, sales to minors, and protection of smoke-free/aerosol-free environments, including sanctions and platform accountability.
7. Colombia should urge the Council of State to issue a timely decision on the pending annulment action concerning the interpretation of the APS prohibitions, noting that both Law 1335 of 2009 and Law 2354 of 2024 establish an outright ban on advertising, promotion, and sponsorship for all tobacco and nicotine-related products.

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Endorsements

Action on Smoking and Health

Alliance of Jordanian universities against tobacco and smoking

ASH Canada

ASH Scotland

BLUE 21 / Unfairtobacco

Campaign for Tobacco-Free Kids

CLAS - Coalition for Americas' Health

Comité national contre le tabagisme, CNCT

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

Corporate Accountability

DNF-Demain sera Non-Fumeur

European Network for Smoking and Tobacco Prevention - ENSP

Fundación Bolivia saludable/Fundación por una Vida Saludable

Health Funds for a Smokefree Netherlands

<https://www.aerzteinitiative.at>

Kenya tobacco control Alliance

Ligue Sénégalaise contre le tabac LISTAB

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

Nofumadores.org

Red PaPaz

Resource Centre for tobacco Control

Salud Justa Mx

Smoke Free Partnership

Southeast Asia Tobacco Control Alliance (SEATCA)
Sustainable Development Policy Institute (SDPI)
Swiss Association for Tobacco Control
Tanzania Tobacco Control Forum
Tobacco & Nicotine Free Life Coalition
Tobacco Free Association of Zambia
Tobacco Free Jordan
Uganda National Health Consumers' organisation (UNHCO)
Vital Strategies