

Tobacco policy and the European Union

Introduction

This fact sheet summarises tobacco control policy formulated at EU level. It also includes information on smoking prevalence and tobacco-related deaths. The principal laws governing tobacco control in the European Union are the Tobacco Products Directive, the Directive on Tobacco Advertising, Tobacco Tax Directives and the Common Agriculture Policy (governing the growing of tobacco). In addition, as the European Union is a Party to the Framework Convention on Tobacco Control (FCTC) legislation is designed to comply with this international treaty. It is as yet unclear what the full impact of Britain's vote to leave the European Union will be on tobacco control policy but this is something that will be closely monitored.

Smoking prevalence

Surveys to measure smoking prevalence in European countries vary considerably in scope and frequency making it difficult to compare smoking rates between countries. In addition, pan-European statistics often differ from statistics obtained from national surveys.

According to the 2015 Eurobarometer survey, over one quarter of European Union citizens (26%) currently smoke either cigarettes, cigars or a pipe.¹ More than half (54%) report they have never smoked, while 20% are ex-smokers. The following statistics are from data collected for the WHO report on the global tobacco epidemic, 2015. (Some non-EU countries included.)

Adult population cigarette smoking daily*: most recent data available as at 31/12/14 ²

Country	Adult Smoking prevalence (%)	Country	Adult Smoking prevalence (%)	Country	Adult Smoking prevalence (%)
Austria	33.0	Hungary	18.5	Poland	22.0
Belgium	18.9*	Iceland	11.0*	Portugal	26.3*
Bulgaria	28.9*	Ireland	19.5	Romania	24.3
Cyprus	26.5	Italy	19.5*	*Slovak Republic	34.9*
Czech Republic	21.7	Latvia	34.3*	Slovenia	22.6
Denmark	17.0*	Lithuania	20.5*	Spain	23.5
Estonia	26.0	Luxembourg	17.0	Sweden	11.0*
Finland	15.8	Malta	19.4	Switzerland	16.9
France	28.2	Netherlands	19.0*	Turkey	23.8*
Germany	20.9*	Norway	13.0*	United Kingdom	19.2
Greece	36.3				

Source: Tobacco control country profiles. [*In countries where daily cigarette smoking rates are not available daily tobacco smoking is shown instead. For Ireland, Italy, Portugal, Slovakia and Slovenia the figures are for current tobacco smoking. For the UK the figure is for current cigarette smoking. Current smoking is defined as smoking at least once a week.] Further information including smoking prevalence trends is available from The Tobacco Control Database for the WHO European Region: <http://data.euro.who.int/Tobacco/>

According to the Eurobarometer survey, across the EU just under half of all smokers (48%) consume 11-20 cigarettes a day with the average smoker consuming 14.4 a day. Consumption is highest in Austria (19.8) and Cyprus and Greece (19.5) while the fewest cigarettes are consumed in Sweden (9.9), the Netherlands (11.4) and Estonia (11.5).¹

Tobacco-related deaths

Tobacco is the single largest cause of avoidable death in the European Union (EU). It accounts for nearly 700,000 deaths each year³ while a further 13 million people suffer from a serious disease caused by smoking.⁴ The WHO estimates that 16% of all deaths amongst adults in Europe are attributable to tobacco.⁵

Tobacco control policies by country

A 2013 report measuring the implementation of key tobacco control policies in 34 European countries gave the UK the highest rank overall, for the third time since the survey began in 2010. The survey, which ranks countries according to how well they are implementing six policies identified by the World Bank as being essential for a comprehensive tobacco control programme, scored the UK 74 out of a possible maximum score of 100. Austria, with just 31 points, came bottom of the table.⁶

Framework Convention on Tobacco Control

On 1 June 2004, the EU Council approved the World Health Organization's Framework Convention on Tobacco Control (FCTC).⁷ The FCTC is the first-ever global health treaty. It provides a framework for countries to enact comprehensive tobacco control legislation. This includes a ban on all tobacco advertising, promotion and sponsorship, the creation of smoke free work and public places and the adoption of tax and price measures to reduce consumption. It also obligates nations to promote and strengthen public awareness of tobacco control issues. The FCTC also requires participating Parties to protect their tobacco control policies from the vested interests of the tobacco industry.

The EU and member states ratified the FCTC in November 2004 and the treaty entered into force in February 2005.

For more information about the FCTC see: www.who.int/fctc/en/index.html

Tobacco Products Directive 2001

In May 2001, the Tobacco Products Directive (TPD) which regulated tobacco products became law.

The Directive:

- Imposed upper limits on the tar (10mg), nicotine (1mg) and carbon monoxide (10mg) content of cigarettes.
- Required tobacco companies to disclose details of additives in tobacco products and their purpose.
- Banned misleading descriptors such as "light" and "mild".
- Increased the size of health warnings on tobacco packaging from the previous minimum of 4% to at least 30% of the front and 40% of the back surfaces of the pack.
- Provided Member States with the option of using pictorial warnings.

Belgium was the first EU Member State to adopt pictorial warnings which were introduced in November 2006. Romania followed in July 2008 and the UK in October 2008. The UK is currently the only EU country to require pictorial warnings on cigars and hand-rolled tobacco as

well as on cigarette packs.

Tobacco Products Directive 2014

In February 2014 the EU agreed a revised Tobacco Products Directive.⁸ For the first time the Directive includes measures to regulate electronic cigarettes. The revised TDP is designed to complement obligations under the WHO Framework Convention on Tobacco Control.

Member states have until May 2016 to transpose the Directive into national law.

The 2014 Directive:

- Prohibits cigarettes and roll-your-own tobacco with characterising flavours, for example, fruits and chocolate. There is an additional transition period for the prohibition of menthol flavour in cigarettes until 20th May 2020.
- Requires that health warnings appear on packages of tobacco and related products. Combined (picture and text) health warnings must cover 65% of the front and back of cigarette and roll-your-own tobacco packages.
- Bans certain promotional and misleading descriptors on tobacco packaging such as “lite”, “natural” or “organic”.
- Requires the tobacco industry to submit detailed reports to the Member States on the ingredients used in tobacco products, in particular cigarettes and roll-your-own tobacco.
- Allows Member States to either prohibit cross-border distance sales of tobacco products or introduce a registration scheme for businesses engaged in such sales. (The UK will introduce a registration scheme.)
- Obliges manufacturers to notify novel tobacco products in electronic form six months before placing them on the EU market.
- Introduces new labelling and reporting requirements for novel tobacco products and herbal products for smoking.
- Sets minimum content for unit packs of at least 20 cigarettes and 30g for roll your own tobacco.
- Introduces EU-wide tracking and tracing system for the legal supply chain. This includes visible and invisible security features e.g. holograms, designed to facilitate law enforcement.⁹

Electronic cigarettes

Electronic cigarettes containing less than 20 mg/ml of nicotine which make no claims relating to smoking cessation will be governed by the TPD. These products will be regulated as consumer products. The directive:

- Requires products to be child and tamper proof.
- Requires health warnings to cover 30% of the front and back of the packaging, instructions for use, and information on addictiveness and toxicity
- Bans promotional elements on packaging.
- Requires all substances contained in the product and information on the product’s nicotine content to be listed.
Bans cross border advertising and allows member states to regulate domestic advertising (e.g. billboards).
- Requires manufacturers to inform Member States before placing new products on the market and to report annually to Member States.

For more information see: [EU Questions & Answers: New rules for tobacco products](#).

For further information on the impact of the TPD on e-cigarettes see:
ASH Briefing: The impact of the EU Tobacco Products Directive on e-cigarette regulation in the UK

Impact of Britain's vote to leave the European Union:

Tobacco policy is subject to three tobacco-specific EU Directives:

- o Tobacco Advertising Directive
- o Tobacco Products Directive
- o Tobacco Tax Directive

On all three of these tobacco specific Directives the UK goes further than is required by the EU. For example, we ban all advertising, promotion and sponsorship, not just cross border, and also have a point of sale display ban; we have standardised packaging; and we have higher tax rates than the EU requires. The regulations which transpose EU Directives are UK regulations and even after we leave the EU they would have to be annulled by an act of parliament; this would not happen automatically as a result of the vote to leave.

Although many of the UK's tobacco control regulations stem from EU Directives, the UK also has obligations as a Party to the WHO's Framework Convention on Tobacco Control (FCTC).

EU Directive on Tobacco Advertising

In May 2003 a directive to ban tobacco advertising was enacted. The directive replaced an earlier law that was annulled following a legal challenge by the tobacco industry and the German government on the grounds that it would not facilitate trade in the single market.

The directive covers advertising that crosses national borders (such as press, radio or internet advertising) and sponsorship of sport but does not apply to indirect advertising (brand-sharing) or advertising within member states (e.g. on billboards). Member States are also at liberty to implement legislation that places even tighter restrictions on advertising than the directive requires.

Germany raised a fresh legal challenge but in December 2006 the European Court of Justice held that the Directive has a valid legal base and does not compromise the freedom of expression. The judgment confirmed that the EU can legitimately ban cross-border advertising, sponsorship and promotion of tobacco. Following the judgment Germany rapidly transposed the Directive into its national law, as all other Member States had already done.

Tobacco advertising on television is banned in the EU by a separate law, the Audiovisual Media Services Directive (formerly the Television without Frontiers Directive), which also prohibits the sponsorship of television programmes by tobacco companies.¹⁰ For further information see the [ASH Law Guide: Advertising, promotion & sponsorship](#).

Tobacco Taxation

Tobacco is a very heavily taxed product in most Member States. This is justified on public health grounds as it helps discourage consumption, especially among young people due to their limited disposable income. A review of the link between price and consumption found that, on average, smoking consumption in Europe decreases by 5% - 7% for a 10% increase in the real price of cigarettes.¹¹ Three directives on the taxation of tobacco products were adopted in 1992. These defined the structure of taxation for tobacco products and provided for a limited degree of harmonisation of these taxes. Under the terms of these directives, Member States

were required to set taxes on cigarettes at a minimum of 70% of the final retail price (minimum rates of 57% for excise taxes and 13.04% for VAT).

In November 2009, a political agreement was reached on a new tax structure of manufactured tobacco. According to the agreement, the Council decided to increase, by 1 January 2014, the monetary minimum excise rate to 90 euros per 1000 cigarettes (from 64 euros per 1000) and the proportional minimum to 60% of the weighted average sales price (from 57%). However, the rules allowed for transitional arrangements until 1 January 2018 for member states that have not yet achieved, or only recently achieved, the current minimum rates. These countries are Bulgaria, Greece, Estonia, Latvia, Lithuania, Hungary, Poland and Romania. The minimum excise levels on cigarettes will apply to all cigarettes and not just to one category (the cigarettes most in demand), which account for only one third of cigarette sales in the EU. In future, the new tax regulations will make all cigarette categories more expensive. In addition, the new Directive allows more flexibility to increase the specific component of the excise duty which again, allows Member States to make all cigarettes more expensive and to increase the price of discount brands which are particularly attractive to young smokers. However, tax levels on hand rolling tobacco remain very low.

A separate directive (2007/74/EC) which entered into force in December 2008, gives Member States the option of reducing the duty-free limit from 200 cigarettes to 40 for travellers arriving from a non-EU country. (Duty free sales to individuals travelling within the EU have been banned since 1999.)

The tobacco tax Directives are currently under review.

Illicit trade in tobacco

In 2000 the European Commission and ten Member States sued a number of tobacco companies in the United States for smuggling tobacco into the EU. In 2004 the EU agreed to drop the case against Philip Morris International (PMI) in return for an Agreement under which the company was required to take steps to ensure that its products were not traded illegally in the EU. In 2007, Japan Tobacco International, which was also involved in the original legal action, signed a similar Agreement to that of PMI. All 27 Member States are now signatories to the Agreements, the UK being the last country to sign.^{12 13} In 2010, BAT and Imperial Tobacco also signed similar agreements.¹⁴

On 6th July 2016 the EU Commission announced that the Agreement with PMI would not be renewed beyond its expiry date of 9th July 2016, following an assessment which found that the Agreement had not resulted in a decrease in the amount of PMI illicit cigarettes in the EU.¹⁵

The EU is expected to become the 18th jurisdiction to ratify the WHO Protocol to Eliminate Illicit Trade in Tobacco Products (Illicit Trade Protocol) following a vote in favour of the policy by the European Parliament in June 2016. The measure has already been approved by the EU Council of Ministers.¹⁶

The EU's anti-fraud office, OLAF, works with national governments in developing measures to combat illicit trade including tobacco smuggling.¹⁷ For further information see: [ASH Fact Sheet on Illicit Trade in Tobacco](#).

The Common Agricultural Policy (CAP)

The CAP as a system of support for farmers is intended to replace national support schemes to ensure that a product is produced on an equal footing across Member States and does not benefit from more support in one location than another. For many years tobacco was the most heavily subsidised crop per hectare. In 2007, tobacco growers in the EU, based mainly in Italy

and Greece, received a subsidy of €335.5 million.¹⁸

In April 2004, the Council of Agriculture Ministers agreed to a package of reform measures including the gradual phasing out of tobacco subsidies, to be completed by 2010.¹⁹ Between 2003 and 2011 the EU spent €44.8 million on assisting tobacco growers to switch to other activities. The last payment was made under the 2011 budget.²⁰

Other EU tobacco policy & regulations

Public places and the workplace

In 1989 the EU adopted a resolution on banning smoking in public places and in all forms of public transport. Resolutions are not binding on member states; they represent a guideline for action. In 1996, a European Commission report on the implementation of the resolution found that all member states had some measures to restrict smoking in public places. Since then most European countries have implemented laws that offer some degree of protection from secondhand smoke. By 2012, all 34 countries within the WHO European region had at least some laws prohibiting smoking in public places, for example bars and restaurants, while 9 had comprehensive smokefree policies.²¹

Cigarette lighters

In February 2006, the European Commission adopted a separate Decision requiring all cigarette lighters sold in the EU to be child-resistant.²²

RIP cigarettes

The European Union has adopted a standard for Reduced Ignition Propensity (“fire-safer”) cigarettes. Reduced ignition propensity cigarettes have ultra-thin concentric bands or “speed bumps” to restrict oxygen access to the burning end of the cigarette, causing the cigarette to go out if not “puffed” by the smoker, thus reducing the risk of fires. From November 2011, all cigarettes manufactured and sold in the EU were required to be compliant with the new standard.²³

Smokeless tobacco

A form of oral tobacco known as snus in Sweden, where it has been historically popular, has been subject to some legislative debate across the EU, starting in 1994 when Sweden began EU membership negotiations. The EU adopted a directive in 1992 prohibiting the sale of tobacco for “oral use not intended to be smoked or chewed,” which included the Swedish snus but not, for example, chewing tobacco or nasal snuff. The law prohibits the sale, but not the use, of snus. Sweden was given an exemption to the ban on the sale of snus.

Following a legal challenge from the tobacco manufacturing industry, the European Court of Justice upheld the decision to prohibit the sale of snus across the rest of the EU and on 15 December 2004 ruled that the prohibition on the marketing of tobacco products for oral use is valid.²⁴ Lifting the ban on snus was briefly considered during the revision of the TPD but rejected as there is no demand for snus in other Member States.

For a brief description and links to official texts of tobacco related legislation and policy view the [ASH Law Guide](#). This also covers EU directives.

See: [EU Tobacco policy](#) on the Europa website for a full list of EU Directives and related information on tobacco.

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