

Germany



Summary of Findings

1. INDUSTRY PARTICIPATION IN POLICY DEVELOPMENT

There had been more than 10 meetings between tobacco industry (TI) representatives and top-level officials of the Ministry of Finance, largely related to the tobacco taxation reform, that were only revealed bit by bit through parliamentary requests for information. This indicates that there is no firewall between the Ministry of Finance and the TI. A report alleging that representatives of the Ministry of Finance attended the world's largest tobacco trade fair InterTabac in Dortmund in 2022 raises further questions.

There were no TI representatives in the German delegation to the last session of the Conference of the Parties to the WHO FCTC (COP9) or the Meeting of the Parties to the Protocol to Eliminate Illicit Trade in Tobacco Products (MOP2) in 2021.

2. INDUSTRY CSR ACTIVITIES

Public institutions in several states received sponsorship from the TI or its affiliated organizations, for example in Hamburg, Lower Saxony, North Rhine-Westphalia and Rhineland-Palatinate that host TI headquarters or factories. Most notably, tobacco companies contributed to celebrations of state representations to the federal government in Berlin – an investment of comparatively small amounts to help gain access to high-ranking political decision makers at the state and federal level. The TI also sponsored cultural and educational institutions.

3. BENEFITS TO THE INDUSTRY

The newly introduced tax on e-cigarettes came into force in July 2022. However, the government granted a “quasi sell-off period” until 12 February 2023 for e-cigarette liquids that

were demonstrably put on the market before 1 July 2022. Electronic cigarette producers therefore had more than ten months from the official promulgation of the tax law on 17 August 2021 to produce and put on the market as much as possible, and retailers had another seven months for the tax-free sale of these products.

The government gives the TI a tax exemption for tobacco products that manufacturers offer their employees as an in-kind allowance, amounting to approximately EUR €5 million annually. This contradicts national sustainability goals, as the government itself acknowledges. It intends to consider abolishing this tax exemption in the context of the revision of the EU Tobacco Tax Directive.

4. UNNECESSARY INTERACTION

Top level government officials and politicians participated and spoke in a number of TI (co-)sponsored events. In 2021 and 2022 TI and related lobby groups sponsored events of political parties, including governing parties. These sponsorships regularly provide opportunities to reach top-level government officials, including the Chancellor, as well as MPs.

5. TRANSPARENCY

The Ministry of Health and the Ministry of Food and Agriculture partially disclose meetings on their websites- but only after they have taken place. Other ministries, such as the Ministry of Finance that has the lead management of tobacco taxation, or the Federal Chancellery, do not disclose their meetings with the TI. If at all, these meetings only come to light because of parliamentary requests for information or freedom of information requests.

TI representatives meet with government representatives in hearings that are a necessary part of the legislative

procedure for new laws. Written statements by the invited organizations or companies related to these hearings are published on the website of the concerned ministry. Dates, participants and minutes of related in-person or virtual meetings are not disclosed.

6. CONFLICT OF INTEREST

TI contributions – donations or sponsorship – to political parties, candidates or campaigns are allowed in Germany. In 2021 and 2022 political parties received at least EUR €235,000 of contributions from TI or related groups. Parties are required to disclose donations exceeding EUR €10,000 in their annual reports, published two years after the fact. Only donations exceeding EUR €50,000 annually have to be disclosed immediately.

There is no information on current government officials holding positions in the TI.

7. PREVENTIVE MEASURES

There is no procedure for the disclosure of records of interactions with the TI. The Ministry of Health and Ministry of Food and Agriculture publishes a list of meetings, but minutes are not disclosed. As a result of how these lists are maintained it is difficult to ascertain whether or not meetings with the TI and their representatives took place recently. The previous government's responses to freedom of information requests regarding preparatory and follow-up documents of meetings with the TI were inconsistent. In some cases, documents were provided – sometimes against a fee of up to EUR €500 – and in others, the request was denied altogether.

Recommendations

1. Develop and adopt a comprehensive national tobacco control strategy, with a vision for a tobacco-free Germany 2040 – such as the Strategy for a Tobacco-Free Germany 2040 that was published and endorsed by more than 50 public health and civil society organizations in 2021.
2. Implement measures to effectively safeguard political decisions from the influence of the TI and related organizations, as recommended in the Strategy for a Tobacco-Free Germany 2040.