



WHO FRAMEWORK CONVENTION ON
TOBACCO CONTROL

IMPLEMENTATION AND CHALLENGES
IN BOSNIA AND HERZEGOVINA

SHADOW REPORT

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1. SUMMARY

The Framework Convention on Tobacco Control is a document issued by the World Health Organization which represents the most significant instrument for implementation of comprehensive tobacco control measures worldwide.

Bosnia and Herzegovina ratified this Convention in 2009. Universal Declaration on Human Rights, Constitution of the World Health Organization, Convention on the Rights of the Child, Convention on the Elimination of All Forms of Discrimination against Women are some of conventions formally included in the preamble of the Framework Convention on Tobacco Control. Its signatories have the obligation of protecting human right to health from the danger the tobacco smoke poses, as well as to improve the life standard of their citizens, whereby governments are responsible for protecting individuals from direct exposure to tobacco smoke. However, this document was prepared eight years from the signing of the Framework Convention on Tobacco Control, and laws are still not harmonized with the Convention. By signing this Convention, Bosnia and Herzegovina undertook the obligation of submitting periodical reports on the progress of harmonization of laws with this Convention. The aim of such reporting is to enable the signatories to learn something from experience of other signatories, while they also serve as a basis for a review performed by the Conference of Parties (COP). Since the Convention ratification, Bosnia and Herzegovina has submitted a total of three reports on the progress of its implementation.¹

The last report was submitted on 14 April 2016. Although it contained the data on the smoking prevalence among adults and children, as well as on the level of exposure to tobacco smoke, and on other issues related to measures, policies and cooperation in the tobacco control area, it did not contain data that could indicate the actual situation in the field when it comes to implementation of the Framework Convention on Tobacco Control. Besides, the data presented were incomplete, and they only partially provided answers to questions they tackled. The inter-sectorial cooperation was stated as one of the main challenges for implementation of the Convention.²

This is why civil society organizations have special potential for getting a better insight and information during their field activities, and of presenting them to the COP. The Shadow Report serves as an important instrument for achieving this aim. This report has been modelled on similar reports on implementation of the Framework Convention on Tobacco Control, whereby other Convention signatories have been taken as an example. In the report, special emphasis was placed on the least tackled problems, challenges and issues that refer to specific Articles of the Framework Convention on Tobacco Control. In it, actual situation related to implementation of Articles 7, 13 and 5.3 has been analyzed. Besides containing a detailed overview of information, analysis of implementation of every of the aforementioned Articles also consists of conclusions and recommendations for their implementation. The analysis, conclusions and recommendations are results of multiannual activities of the non-governmental sector implemented in the tobacco control area. The purpose of this report is to serve as a complement to the official national report on implementation of the Convention, and to provide replies to some of the questions that are yet to be tackled.

1.1. Overview of legislation in Bosnia and Herzegovina in the field of tobacco control

Despite numerous opportunities for preventive action, smoking in the world is still the biggest single risk factor for the health of the population of all ages. Smoking in Bosnia and Herzegovina is also one of the leading public health problems. Together with other forms of unhealthy lifestyles such as improper diet, physical inactivity and alcohol consumption, smoking and tobacco smoke exposure lead to numerous illnesses and conditions that cause premature deaths and high rates of disability.

The results of recently conducted population studies in the Federation of Bosnia and Herzegovina (FBiH) in 2012 point to an alarming high percentage of daily smokers, a total of 61.3% of men and 35.9% women in working age (25-64 years), which is statistically a significant increase compared to the 2002 survey results, when the percentage of daily smokers among men was 49.3% and among women 29.8%.³ Also, exposure to passive smoking in all population groups is alarming, both at home and in public places, which require urgent interventions in terms of smoking ban in public places in the FBiH because it is obvious that the laws in this area are not respected and the penal policy did not give the right results. According to the research that was conducted, almost 60% of the adult population (57.3%) confirms the daily exposure to tobacco smoke at the workplace, of which 35.6% of respondents indicate exposure to more than 5 hours during the day, while among the population of school children and young people, 13-15 years old 87.8% of this population, of which 86.6% of boys and 89.7% of girls, confirms the daily exposure to passive smoking in public places.⁴

The present state can be attributed to the currently inadequate law that has not been aligned either with the Tobacco Control Framework Convention or the EU Tobacco Product Directive. This is the case in both entities (Federation of Bosnia and Herzegovina and Republika Srpska). Although Bosnia and Herzegovina has ratified the Framework Convention on Tobacco Control in 2009⁵ by which it undertook obligation to align its laws with it, this has not yet happened, and at the time of writing this report (October 2017), in both entities initiatives and procedures for new tobacco control laws are in progress. The current inconsistency and weak implementation of the existing laws led to disastrous public-health statistics in both entities, as well as the alarming level of exposure to tobacco smoke in public places across the country, thus damaging the basic human right to life and the healthy environment.

1.2. Bosnia and Herzegovina

The **Law on Tobacco of Bosnia and Herzegovina was passed in 2010 (Official Gazette of BiH, no. 32/10)**, stipulating the manufacture, organization of manufacture, purchase, processing, refinement and sale of raw tobacco leaves, as well as manufacture and sale of tobacco products in Bosnia and Herzegovina. The provisions of this Law as regards the manufacture of raw tobacco leaves do not apply to scientific organizations producing tobacco for scientific or testing purposes.

Within the meaning of this Law, the tobacco includes leaves of the cultivated *Nicotiana tabacum* L plant, and its types:

- a) Virginia (flue-cured) dried in special barns in a controlled atmosphere,
- b) Barley (air-cured) dried in ambient air, in shadow,
- c) Herzegovinian ravnjak (sun-cured) dried in ambient air, in the sun.

The Law on Tobacco of Bosnia and Herzegovina legally regulates definitions of tobacco production, tobacco processing, manufacturing of tobacco products, manufacturers of tobacco and of tobacco products. It also clearly defines the mode of tobacco production and processing, as well as manufacturing and sale of tobacco products.

Law on Excise Duties in Bosnia and Herzegovina (Official Gazette of BiH, no. 49/09)

Law on Amendments to the Law on Excise Duties in Bosnia and Herzegovina (Official Gazette of BiH, no. 49/14)

This Law governs taxation of sale and/or import of certain types of products (excise products) in the territory of Bosnia and Herzegovina through a special type of tax – excise. The Law defines the subject of the tax, the taxpayer and mode of registration, excise basis, excise amount and rate, incurrance of liability to calculate and pay the excise duty, marking of excise products and conditions of their sale, tax records and tax registration, control of calculation and payment of excise duties, exemption, refund and reduction of excise duties, restrictions applied to sale of certain products, as well as penal provisions. Within the meaning of this Law, the manufacturer of tobacco products is every natural person, entrepreneur or a legal persons with residence/head office in Bosnia and Herzegovina who/which processes tobacco and tobacco products intended for retail sale.

Article 4 of the Law defines the excise products which, among other things, include tobacco products. Also, Article 6 defines tobacco products, which are: a) cigarettes b) cigars and cigarillos c) smoking tobacco 1) rolling tobacco 2) other smoking tobacco.

1.3. Federation of Bosnia and Herzegovina (FBiH)

Law on Restricted Use of Tobacco Products (Official Gazette of FBiH, nos. 6/98, 35/98 and 11/99)

The Law on Restricted Use of Tobacco Products stipulates restrictions in the use of tobacco products, the obligations of manufacturers, the ban on advertising and sale of tobacco products and other issues aimed at improving and protecting public health from harmful effects of tobacco products.

The constitutional basis for the enactment of this law can be found in Chapter III Article 2 sub-paragraph b) and Article 3 of the Constitution of the Federation of Bosnia and Herzegovina.

The aforementioned provisions provide for the division of responsibilities between the Federation Government and the Cantons in the field of healthcare, where:

- the Federation Government has the right to make the policy and enact laws concerning this responsibility (Article III 3, paragraph 3);
- the Cantons have the right to make the policy and implement the laws (Article III 3, paragraph 4);
- as needed, the responsibilities in the field of healthcare are exercised by the Cantons as coordinated by the Federation Government (Article III 3, paragraph 1), whereby the Federation Government takes into account the diverse situations of the cantons and the need for flexibility in the implementation (Article III 3, paragraph 3).

The Law on Restricted Use of Tobacco Products in the Federation of BiH was first enacted in 1998 and it was among the first such laws in the surrounding countries. As many changes have since occurred in the sphere of tobacco control internationally, several amendments have been made thereto, with the last ones being made in 2011.

In order to ensure harmonization with the Framework Convention on Tobacco Control, the **Law Amending the Law on Restricted Use of Tobacco Products (Official Gazette of FBiH, no. 50/11)** and the **Rulebook on Labeling of Tobacco Product Packaging (Official Gazette of FBiH, no. 57/11)** were passed in the course of 2011, with the purpose of raising awareness among the public on the ingredients of tobacco smoke and its detrimental health effects.

Statutory provisions pertain to several principal areas:

1. Ban on the use of tobacco products
2. Obligations of manufacturers
3. Ban on advertising
4. Ban on sale
5. Monitoring
6. Penal provisions.

1.4. Republika Srpska (RS)

LAW ON THE BAN ON SMOKING TOBACCO PRODUCTS IN PUBLIC PLACES (Official Gazette of RS, no. 46 of 21 May 2004; 74/04, 95/04, 92/09)

LAW ON THE PROTECTION OF POPULATION FROM EXPOSURE TO TOBACCO SMOKE (Official Gazette of RS, no. 30/2010)

These laws stipulate where smoking is prohibited and where it is permitted. The laws describe the regulations in detail and provide guidelines as to who is responsible and how they are responsible for the enforcement of the laws. However, these laws are not in accordance with the Framework Convention, as they permit smoking in separate areas in public places and, in case of restaurants, in the same areas.

As pointed out in Article 1 of the Law on the Ban on Smoking Tobacco Products in Public Places, this Law, for the purpose of protection of non-smokers and risk groups, such as minors, pregnant women and the elderly, from passive smoke, establishes the ban on smoking of tobacco products in public places. Also, the Law points out that public places imply educational institutions, institutions for accommodation and stay of pupils and students, health institutions defined by the Law on Health Care, social welfare institutions, state, administrative, court institutions, alimentary institutions, public transportation, workplaces, places occasionally available to the public and other public places such as banks, post offices and shops.⁶

Article 3 of the Law on the Protection of Population from Exposure to Tobacco Smoke stipulates that smoking is prohibited in all indoor public and workplaces. However, in continuation of the Law, places where smoking is allowed, under conditions stipulated by the Law, are defined, as well as employers' obligations related to them.⁷

Other laws in the field of tobacco control in the RS are as follows:

Law on the Ban on Sale to and Use of Tobacco Products by Persons Under the Age of 18 (Official Gazette of RS, nos. 46/04, 74/04, 96/05, and 92/09)

Law on the Ban on Advertising of Tobacco Products (Official Gazette RS, nos. 46/04, 74/04, and 92/09)

The Law on the Ban on the Sale and Consumption of Tobacco Products to Persons Bellow 18 Years of age in RS is established, as prescribed in Article 1, for the purpose of implementation of preventive measures and improvement of health od persons under the age of 18 from harmful effects of tobacco products. This Law stipulates:

- the ban of use, sale and giving of tobacco and tobacco products to persons under the age of 18 and by persons under the age of 18
- the ban of sale or giving of tobacco products at certain locations
- other bans related to sale of tobacco products
- obligations of educational institutions within the meaning of this Law⁸

Article 1 of the Law on the Ban on Advertising of Tobacco Products regulates the ban on advertising of tobacco products with the aim of decreasing the use of these products for the purpose of improvement of public health. According to the Law, as emphasized in Article 4:

Advertising of tobacco and tobacco products is prohibited in:

- 1) printed media, such as: newspapers, magazines, books, callendars and other printed media
- 2) in radio shows
- 3) on TV and movies
- 4) through sponsorships, including cultural, sports and other public events
- 5) through other media and methods that may be used for advertising purposes, such as advertisement billboards, illuminated advertisement, garments, gifts, coupons, discounts, competitions, as well as free distribution of tobacco products.

The Law also lists exceptions to the ban on advertisement, and in Article 5 it points out that „publishing of information in professional literature, magazines and other publications intended for professional education of staff, technical and technological development of manufacturing of tobacco products shall not be considered advertising, within the meaning of this Law.“⁹

1.5. Brčko District

LAW ON TOBACCO („Official Gazette of Brčko District BiH“, no. 1/00, 4/00, 7/04, 20/05 and 24/05)
<http://skupstina.ba/3-zakon/ba/Zakon%20o%20duhanu/000%2035-05%20Zakon%20o%20duhanu.pdf>

This Law governs the production, processing and sale of tobacco products, and it defines penalty provisions and measures of supervision of the Law implementation.

Article 2 of this Law points out that „due to economic and fiscal importance of production of tobacco and tobacco products, the government of Brčko District of Bosnia and Herzegovina shall incite domestic production through measures of development and economic policy, within regulations and documents governing incitement of domestic production.“ The Law also establishes in detail the rights and obligations of producers and processors, delivery, quality assessment and other issues. The Law does not offer solutions to issues related to tobacco smoke exposure and advertising and promotion of tobacco products.

At the moment of preparation of this report, the Draft Law on Ban on Smoking and Other Forms of Use of Tobacco Products in Public Places in Brčko District BiH was in the procedure, and in October 2017 it was adopted by the Brčko District BiH Assembly. During discussions in which the Assembly representatives recognized the necessity to adopt this regulation, they pointed out the need to extend the deadline for adaptation, especially in case of catering facilities which, once the regulation is adopted, will have to

2017.

physically separate the area tobacco products can be used in from the area where their use shall be prohibited. This modification, as well as other modifications made to the adopted Draft, shall be defined through amendments when considering this Law in its second reading.¹⁰

In late November 2017 Brčko District government supported this Law.

1.6. Obligation of harmonization of laws and international legal documents

A significant step forward for tobacco control mechanisms in BiH is the decision adopted by the BiH Presidency and the BiH Parliament in June 2009 on ratification of the Framework Convention on Tobacco Control of WHO (**FCTC WHO**), whereby activities of harmonization of entities' legislative governing the tobacco control area in BiH with this document of international importance were initiated. By ratifying this document, BiH undertook the obligation of aligning its laws with this Convention.

The Directive 2014/40/EU on tobacco products is an EU document regulating production, promotion and sale of tobacco and tobacco-related products. In the context of Euro-Atlantic integration for Bosnia and Herzegovina, maximum harmonization of laws with this Directive represents fulfillment of its obligations and a step forward on this path. Issues from the tobacco control area and existence of the law, or of the draft law, which would additionally regulate this area are also listed in the European Commission's Questionnaire submitted to Bosnia and Herzegovina in December 2016.¹¹ The ambassador Lars-Gunnar Wigemark, the head of the Delegation of European Union to BiH and European Union Special Representative in BiH said that „the tobacco control legislative which is currently in the procedure in both entities has been supported by the European Union and it represents an important part in the process of EU integration.¹²

1.7. FBiH Draft Law on Control and Restricted Use of Tobacco, Tobacco and Other Products for Smoking

A new draft Law on Control and Restricted Use of Tobacco, Tobacco and Other Products for Smoking, which is substantially harmonized with the regulations of the Framework Convention and of the European Union, is currently in the parliamentary enactment procedure.¹³

This Draft envisages a number of tobacco control measures, including, not limited to, total restriction of consumption of tobacco products in all indoor, public places, ban of highlighting tobacco products at sales premises, issues of advertisement and sponsorship of tobacco products, as well as interaction of government authorities with tobacco industry representatives. At the time of preparation of this report, the Draft of Law on Control and Restricted Use of Tobacco, Tobacco and Other Products for Smoking in FBiH is in the procedure.

Info-graphics 1: Some of the measures provided by Draft Law on Control and Restricted Use of Tobacco, Tobacco and Other Products for Smoking¹⁴

DRAFT LAW PREDICTS:

SMOKING BAN



- in all indoor public places
- in all workplaces
- in all public transport



- in private car if there is a minor inside
- at public gathering

WHERE WILL SMOKING BE ALLOWED?



- in private residences





- at outdoor locations

SALE



sale of tobacco products to minors will be banned



display of cigarettes at retail level will be banned



sale of tobacco products within 100 meters of schools will be banned

BANNING OF TOBACCO PRODUCTS CONTAINING:



flavor



vitamins



caffeine, taurine



color and other additives

NEW LAW REGULATES ALL TOBACCO PRODUCTS INCLUDING:

cigarettes ✓

hookahs ✓

electronic cigarettes ✓

2. FRAMEWORK CONVENTION ON TOBACCO CONTROL

The World Health Organization's Framework Convention on Tobacco Control, as the most important instrument for implementation of comprehensive tobacco control measures worldwide, provides a detailed overview of elements necessary for maximum protection from tobacco smoke and tobacco use. In the following Chapters, we point out the Convention Articles whose implementation we consider insufficiently tackled. These are Article 5 and Paragraph 3 which regulate the important issue of government's interaction with the tobacco industry representatives and conflict of interest, Article 8 which stipulates protection against tobacco smoke exposure and Article 13 which regulates tobacco advertising, promotion and sponsorship.

Article 5 - General obligations, paragraph 3

Article 5 of the Framework Convention on Tobacco Control stipulates general obligations of the Convention's signatories, including preparation, implementation and occasional updating and implementation of comprehensive strategy, issues related to the process of preparation of public-health policies in relation to the tobacco industry and other issues. Paragraph 3 of this Article shall be considered in more detail in this Chapter.

In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law.¹⁵

2.1. Introduction

Involvement of the tobacco industry in the creation and implementation of public health policies is certainly present in Bosnia and Herzegovina, as is in other countries of the region. Attempts to block and postpone legislative measures of tobacco control are made frequently, while tactics used by the tobacco industry in BiH are not different from those seen in other countries. Particularly pronounced activities of the tobacco industry in BiH aimed at preventing the introduction of new legislative measures include lobbying, using advocacy (front) groups, financing research, activating and managing “associations for protection of smokers' rights”, warning of the perils of the black market while highlighting corporate social responsibility, and many others. All of these tactics have been repeatedly deployed in country after country all over the globe, with the same objective – fighting effective measures of tobacco control.¹⁶

Table 1: Tobacco industry tactics in fighting tobacco control in BiH

Tactic	Objective of the Tactic
Consultations	Recruiting independent experts who criticize tobacco control measures
Corporate social responsibility	Promoting voluntary measures as effective method of addressing tobacco control, creating an illusion of “makeover of the industry” in order to establish partnership with health and other interests
Creation of associations and front groups	Mobilization, creation or illusion of spontaneous mobilization of farmers, sellers, marketing agencies, caterers, anti-taxation groups, aimed at influencing the enactment of laws
Financing research, including universities	Creating doubt as to the evidence of health effects of tobacco consumption and economic effects of tobacco control
Gathering intelligence	Monitoring opponents and social trends in order to predict future challenges
International treaties and other documents	Using trade agreements to force their way into closed markets and raise the issue of legality of proposed statutory measures for tobacco control
Intimidation	Exploiting own legal and economic power to intimidate opponents who support tobacco control
Joint production and licensing agreements	Forming joint ventures with state monopolies, while pressuring the government to privatize them
Litigation	Questioning the law and intimidating opponents of the tobacco industry through court proceedings
Lobbying	Influencing decision makers and political processes
Philanthropy	“Buying” friendships and respect in the society through artistic, sporting, humanitarian and cultural groups
Financing politics	Using contributions to political campaigns to get votes and the support for desired legislative measures from politicians
Pre-empting	Preventing actions by local or state government
Programs for prevention of smoking among young people and for education of sellers	Creating an impression that the tobacco industry actively works to prevent smoking among children and presenting smoking as an adult choice

Associations for protection of smokers' rights	Creating the impression of spontaneous, true public support
Public relations	Using the media to promote positions working in favor of the tobacco industry
Emphasizing the perils of smuggling	To undermine excise measures, marketing and trade
Voluntary agreements with governments	To avoid already adopted regulatory and legislative measures

2.2. Breach of Article 5.3 in the region: Joint efforts of the tobacco industry to protect market with "great potential"

Strategies of major tobacco companies require activities at the regional level, not only in individual countries. Given that the Balkan countries are also countries with the largest smoking prevalence in Europe, tobacco companies put major efforts into "retaining" the existing market and protecting their profit interests. For the purpose of advocating against the increase of excise duties on tobacco products, in breach of Article 5.3, a regional summit of finance ministers, governors and tax administration directors titled "Regional Financial Stability in a New Global Environment" was held on 16 and 17 June in Bečići, Montenegro, sponsored by the Montenegro Finance Ministry, Serbian Association of Economists and Japan Tobacco International (JTI).¹⁷

The summit has, inter alia, repeatedly accentuated the "burning issue of illicit trade in tobacco products", which has been presented by the company JTI as a result of an increase in the tax on tobacco. Due to the fact that the above summit has been used as the platform for the tobacco industry to lobby against effective tobacco control measures, many civic society organizations and public health and tobacco control groups in Western Balkans countries have reacted, by sending an open letter to the governments of Bosnia and Herzegovina, Serbia, Montenegro, Croatia, Macedonia, Albania, Kosovo and Slovenia, as well as to their esteemed representatives. For the same reason, an open letter was sent to the Deputy President of the World Bank for Europe and Central Asia. In Bosnia and Herzegovina, more than 37 nongovernmental organizations/members of the Partnership for BiH Free of Tobacco Smoke have reacted and sent cautionary letters to relevant institutions at the Federation of BiH and Republika Srpska level, as well as at the state level. Four replies to the aforementioned letters have been received: from the Ministry of Finances of RS, Government of FBiH from the Office of the Premier of FBiH and from the Indirect Taxation Agency of BiH, as well as a reply submitted by the regional manager of the World Bank for Western Balkans, Europe and Central Asia.¹⁸

In general, the received replies pointed out that their signatories respect the credibility of the summit's institutional sponsor, and denied any activities which would be initiated based on „instructions made by the tobacco industry“, emphasizing that they are well aware of the interest of preserving the population's health, of the negative effect of smoking and the need to harmonize the legislative with the Framework Convention on Tobacco Control. Besides, the World Bank pointed out that they have informed the event's organizer that in the future the World Bank would not attend these events if it breaches the Convention.

2.3. Multiple breaches of Article 5.3 by fighting new law in FBiH

In their advocating against the introduction of new legislative measures for tobacco control in FBiH, the tobacco industry has interfered with the work of the FBiH Parliament, whereby this institution has on more than one occasion breached Article 5.3. Just before the start of the 21st session of the House of Peoples of the FBiH Parliament, which was held on 27 April 2017, representatives of the tobacco industry were involved in the sessions of the peoples' caucuses. On account of the breach of Article 5.3 and impermissible interference of the tobacco industry with the work of the FBiH Parliament, the non-government sector submitted an appeal to the delegates of the House of Peoples of the FBiH Parliament to urge protection of effective public health policies in the field of tobacco control from the influence of the tobacco industry. Not a single reply or official reaction has been received to the said appeal from representatives of the government and decision makers to whom it was addressed.¹⁹

2.4. Using front groups

As part of their advocacy against the introduction of a new law in FBiH, there was activity by the association of caterers and association for smokers' rights, which is yet another tactic of the tobacco industry. Particularly active and notable advocacy against the introduction of the new law came from marketing agencies financed by the tobacco industry, various associations of caterers and the association for smokers' rights, which has become particularly active after the proposal of the new law has become Draft Law and moved forward in the parliamentary procedure.

2.5. Research supported by the tobacco industry

On 6 September 2017, there was a gathering titled “The myths and the truth about adopted draft law on restricted use of tobacco products”, organized by the FBiH Chamber of Commerce. Presented at the gathering were the results of a survey conducted by the company KPMG, which has a long history of ties to and cooperation with the tobacco industry.²⁰

On top of releasing data to the media that anticipate “a collapse of the catering business”²¹, the same results were used by associations of caterers in their advocacy against the law, were repeatedly emphasized during public discussions on the law, and, just before the main public discussion in Sarajevo, they were even distributed to the participants in form of flyers. Besides the caterers and representatives of the tobacco industry, groups for “smokers' rights” and representatives of marketing agencies actively use the results of such surveys in their advocating against the law. In presenting the results of the said survey, the claim is made that “the caterers expect a significant decline in sales, of around 40 percent, and according to calculations, this decline amounts to around BAM 259 million. Due to decrease in revenues and lack of funds, a decrease in employment is expected in this sector, by some 11,000 people, according to the assessment.”²² Such assessments rely on the study by the company KMPG, which has a long history of cooperation with the tobacco industry. Identical tactics of predicting a collapse of the catering sector have been used in many other countries.

2.6. Recommendations for the implementation of Article 5.3

1. A strategy is warranted at the BiH level, as well as at the entity level, to ensure the implementation of Article 5.3 of the Framework Convention on Tobacco Control. The strategy should include the development of policies, statutory instruments and methods to ensure liability for compliance;
2. BiH should develop a mechanism for providing assistance to all government levels in the implementation of Article 5.3 within their respective responsibilities, in order to coordinate its implementation at all levels;
3. Civic society organizations that are in a position to accelerate the implementation process should be invited to become actively involved in assisting the implementation;
4. Health ministries at all levels should regularly inform all government levels in charge of and involved in tobacco control (prime ministers, cantonal and municipal authorities, parliament, finance ministries, taxation administrations, the central bank, etc.) about the obligations prescribed under Article 5.3. This communication should be proactive, periodical and should be presented to the public;
5. Health ministries, in cooperation with other responsible institutions in the field of healthcare and civic society organizations, should develop handbooks for interaction with representatives of the tobacco industry for civil servants, decision makers and government representatives. These handbooks should contain the instructions for transparency of all meetings between government representatives and representatives of the tobacco industry, including the information on the attendees, topics discussed and the time of the meeting. Adherence to such handbooks should be monitored and reported;
6. All government levels should give instructions to all their departments, agencies and partners to avoid partnership with the tobacco industry, while monitoring the adherence to these instructions;
7. All tobacco companies should have the obligation to report all their partnership agreements in the public and private sector. These reports should be presented to the public proactively;
8. It is necessary to raise awareness among decision makers and the public of partnerships made with the tobacco industry being unacceptable;
9. A law on the lobbying is warranted, to help tracking it all.

3. Article 8 - Protection from exposure to tobacco smoke

The tobacco smoke exposure issue is also one of the least tackled ones. Although there are certain data on the tobacco smoke exposure levels, many defects are found in the legal framework itself. In the period this report was prepared in, laws of the Federation of Bosnia and Herzegovina, Republika Srpska and Brčko District were not harmonized with the Framework Convention on Tobacco Control.

1. Parties recognize that scientific evidence has unequivocally established that exposure to tobacco smoke causes death, disease and disability.

2. Each Party shall adopt and implement in areas of existing national jurisdiction as determined by national law and actively promote at other jurisdictional levels the adoption and implementation of effective legislative, executive, administrative and/or other measures, providing for protection from exposure to tobacco smoke in indoor workplaces, public transport, indoor public places and, as appropriate, other public places.²³

3.1. Introduction

Exposure to tobacco smoke in Bosnia and Herzegovina is reaching drastic proportions. The people are constantly exposed to tobacco smoke in public places, in institutions, at workplaces and at public gatherings. Adults and children are equally exposed to tobacco smoke, and the laws that are currently in force in the Federation of BiH and in the Republika Srpska are not harmonized with the Framework Convention on Tobacco Control and do not provide for adequate protection from exposure to tobacco smoke.

3.2. Exposure to tobacco smoke: Current situation

A survey on the health status of the population in the Federation of BiH from 2012 indicates that exposure to passive smoking at home is confirmed by more than half respondents in the Federation of BiH (54.1%), less than half respondents in the Federation of BiH (44.4%) allege exposure to tobacco smoke from other smokers in workplace and more than half respondents in the Federation of BiH (52.7%) allege exposure to tobacco smoke from other smokers in public places. According to the results of the Global Youth Tobacco Survey (GYTS), which was conducted by the Public Health Institute of the Federation of Bosnia and Herzegovina in 2013, 60.7% of children and young people confirm their being exposed to passive smoking in enclosed public places.²⁵

3.3. Current legislation at the state level of Bosnia and Herzegovina

The Law on Tobacco in BiH regulates the manufacture, organization of manufacture, purchase and transport of raw tobacco leaves, as well as the manufacture and sale of tobacco products in BiH. It was adopted in 2010, but it does not include provisions on the ban of smoking or protection from exposure to tobacco smoke.

In the Federation of Bosnia and Herzegovina, the law regulating tobacco control was adopted in March 1998. It is the Law on Restricted Use of Tobacco Products, addressing general provisions on where smoking is prohibited and where it is permitted, as well as other provisions addressing the obligations of tobacco manufacturers, terms of sale and responsibilities for law enforcement. According to Article 3 of this Law, smoking is permitted in:

1. Educational institutions;
2. Institutions for accommodation and stay of children and students;
3. Health institutions;
4. Social institutions;
5. Other public institutions.²⁶

However, the same article of the law also stipulates that “In the institutions, companies and other legal entities referred to in paragraphs 1, 2 and 3 of this Article, smoking is permitted in specially designated smoking areas.”

The Law was supplemented with amendments in 2011, by adding articles addressing the contents of warnings on tobacco product packaging and penalties for breaches thereof, without amending the provisions pertaining to the smoking ban.

Under the Law, sanitary inspections are in charge of enforcing the provisions addressing the smoking ban. However, the Law does not define the division of responsibilities between the inspections at the level of FBiH and those at the cantonal level. In practice, the activities of these inspections concur and they operate without any coordination. No concrete results in terms of the implementation of this Law have been observed to date.

The most relevant laws that touch upon tobacco control in the Republika Srpska are the Law on the Ban on Smoking in Public Places and the Law on the Protection of Population from Exposure to Tobacco Smoke. They stipulate where smoking is permitted and where it is prohibited. These laws describe the regulations in detail and give guidelines as to who is responsible and how they are responsible for the enforcement of the law. However, these laws are not harmonized with the Framework Convention on Tobacco Control, as they permit smoking in separate areas, and, in case of restaurants, permit smoking even in the same area.²⁷

Thus, Article 4 of the Law on the Ban on Smoking in Public Places stipulates that smoking is allowed in specially designated smoking areas, which are separated from the non-smoking area, and that the employer, i.e., the owner of the facility is responsible for allocating premises for these purposes. According to this Law, smoking is allowed in health institutions too, for patients, if and when smoking areas, separate from the non-smoking ones can be set up, and if the medical and psychological indications confirm the patient's need for smoking.

Article 5 of the Law on the Ban on Smoking stipulates that:

„Smoking is prohibited in all indoor workplaces and public places, under conditions regulated by this Law.

Smoking is also prohibited in places which, within the meaning of this Law, are not considered indoor premises, and which are functional part of areas in which health care, education, social care about children and social welfare is provided, courtyards included, as well as outdoor areas intended for theatrical, cinematographic and other types of events.“

In continuation of the same Article, it is pointed out:

„As an exception to Paragraph 1 of this Article, the employer can, within an indoor work area, set up a smoking-only separate area, where the employer's business activity is not carried out, whereby the employer has the obligation of placing a sign informing that smoking is allowed in such an area, except in case of work areas where following business activities are performed:

- state administration and local self-governance;
- health care;
- education;
- social care about children;
- social welfare;
- culture;
- sport and recreation;
- production, control and sale of drugs;
- production, storage and sale of foodstuff;
- communal feeding;
- media and spaces in which recording and live airing is made;
- meetings and public gatherings of citizens.¹²⁸

Although the legal framework of Republika Srpska regulates in more detail the issue of consumption of tobacco products, these laws are not sufficiently harmonized with the Framework Convention on Tobacco Control of the World Health Organization since they leave space for manipulation, which results in the tobacco smoke being mostly omnipresent in indoor public places, and it does not provide sufficient protection from harmful effects of tobacco smoke, even when the space is in line with the law, since separate rooms and areas do not provide appropriate protection from smoke.

In the Brčko District there is no valid legal framework regulating consumption of tobacco products in public places. At the moment of preparation of this report, the Draft Law on Ban on Smoking and Other Forms of Use of Tobacco Products in Public Places in Brčko District of BiH is in the procedure, and in late November 2017 it was supported by the Government. However, besides containing definition of public places, tobacco and tobacco products, as well as of measures for securing implementation of the Law, this Draft envisages separate smoking areas. Thus, Article 7 of the Draft (Exceptions to the ban) reads:

1. Smoking is allowed in specially designated smoking areas, which are separated from the non-smoking area, with a visible sign marking the zone in which the use of tobacco and tobacco products is allowed.
2. The smoking area has to be arranged so that it inhibits the flow of air contaminated with tobacco smoke into other areas, and it has to be equipped with ventilation system and filtering system which is the integral part of the smoking area. The air contaminated with tobacco smoke from the smoking area must not get into other indoor premises.²⁹

3.4. Exposure to tobacco smoke in enclosed public facilities

The biggest exposure to tobacco smoke is present in enclosed public places, in particular when it comes to catering facilities (cafes, bars, restaurants). Very few owners of catering facilities have decided on their own to ban smoking inside the facility, while the facilities which have separate areas, on top of frequent manipulations and non-adherence to the rules, do not have adequate isolation and ventilation, while such separate areas are often not physically enclosed. In the Federation of BiH, 52.7% of persons allege exposure to tobacco smoke from other smokers in public places.³⁰

A survey of Air Quality Monitoring (AQM) conducted in catering facilities in Sarajevo by a research team of PROI has shown exceptionally high concentrations of PM_{2.5} in the facilities where smoking is permitted, as well as in those with separate areas with or without physical barriers. In all of these facilities, as well as in all premises, smoking and non-smoking alike, concentration of PM_{2.5} particles was above 200, which is a level harmful to health, with the exception of non-smoking premises with a physical barrier, where the concentration measured is somewhat under 200, which is also harmful to health.

Table 2: Results of air quality measurements in catering facilities in Sarajevo

Type of Facility	Concentration of PM _{2.5} particles measured ³¹
Facilities where smoking is permitted	236 µg/m ³
Smoking area (without a physical barrier)	236 µg/m ³
Non-smoking area (without a physical barrier)	214 µg/m ³
Smoking area (with a physical barrier)	230 µg/m ³
Non-smoking area (with a physical barrier)	193 µg/m ³

All values measured under the Air Quality Index (AQI) are harmful to health. The Air Quality Index serves as an indicator for daily reporting of air quality. Based on the values of this index, it is easy to establish potential degree of air pollution and potential health problems that can be felt several hours or several days after the exposure to polluted air.

Table 3: Air Quality Index

Air Quality Index	
0-50: Excellent	151-200: Unhealthy
51-100: Good	201-300: Very Unhealthy
101-150: Unhealthy for sensitive groups	300+: Extremely hazardous

3.5. Exposure to tobacco smoke in workplaces and in institutions

Smoking in workplaces, in state institutions and in other institutions of all government levels is often present in both entities. 44.4% of respondents in the Federation of BiH allege exposure to tobacco smoke from other smokers in workplace.³² Even though the laws in both entities prescribe special areas for smoking inside institutions, in practice, smoking is omnipresent in offices, meeting halls, corridors and halls, counter services and other areas.

On 5 June 2017, PROI Association measured the air quality inside the Parliament of the Federation of BiH. The concentrations of PM2.5 particles were measured on three locations: in front of the meeting hall, inside the meeting hall and in the restaurant of the Parliament. The measurements were carried out in cooperation with the Public Health Institute of the Federation of Bosnia and Herzegovina, upon approval of Lidija Bradara, Speaker of the House of Peoples of the FBiH Parliament. The measurement results have shown exceptionally high levels of pollution at all three locations, with the highest concentration of harmful particles (490 $\mu\text{g}/\text{m}^3$) being measured in front of the meeting hall, which is an area where cigarettes are frequently consumed.

Table 4: Results of air quality measurements in FBiH Parliament

Measurement Location / Comment	Value Measured
Inside the meeting hall, immediately before the session, full attendance	204 $\mu\text{g}/\text{m}^3$
In front of the meeting hall, 10-15 persons in front of the hall, several of them consuming cigarettes	490 $\mu\text{g}/\text{m}^3$
In the restaurant of the Parliament, half-full restaurant, 2-3 persons consuming cigarettes	339 $\mu\text{g}/\text{m}^3$

Persons who are exposed to tobacco smoke at their workplace often do not have mechanisms for protection. While in private companies the issue of consumption of tobacco products and areas for that purpose are resolved internally, many workers who are unwillingly exposed to tobacco smoke at their workplace usually depend on the same internal rules or pure will of the employer and/or majority of their colleagues. On the other hand, in the institutions where cigarettes are consumed in areas not designated for such purpose, not only employees, but also citizens who visit these institutions are exposed to smoke.

3.6. Opposition of the tobacco industry to the creation of public spaces free of tobacco smoke: Example of FBiH

The new law on tobacco control in FBiH (the Law on Control and Restricted Use of Tobacco, Tobacco and Other Products for Smoking) has encountered major resistance from representatives of the tobacco industry and related front groups at the start of the parliamentary procedure, where it was brought first as a pre-draft, and later as a Draft Law. Particularly severe criticism was directed at measures that envisage introduction of a ban on the use of tobacco products in enclosed places.

Table 5: Opposition to the ban on smoking in enclosed public places: Sources and tactics

Source	Tactics
Tobacco companies	<ul style="list-style-type: none"> • Criticizing the law as “too restrictive” • Relying on the predictions of perils for the caterers • Cooperating with marketing agencies and associations of caterers and associations for protection of smokers’ rights • Participating in public discussions and lobbying for modification of measures concerning the ban on smoking in enclosed spaces
Marketing agencies	<ul style="list-style-type: none"> • Conducting surveys that predict the collapse of the catering sector, in cooperation with the tobacco industry • Participating in public discussions and lobbying for modification of measures concerning the ban on smoking in enclosed spaces, while quoting the survey results
Associations of caterers	<ul style="list-style-type: none"> • Criticizing the law as “too restrictive” • Relying on the predictions of periods for the caterers • Participation in public discussions and lobbying for modification of measures concerning the ban on smoking in enclosed spaces • Media appearances, guest appearances and press releases
Groups for protection of smokers’ rights	<ul style="list-style-type: none"> • Criticizing the law as “too restrictive” • Relying on the predictions of periods for the caterers • Participation in public discussions and lobbying for modification of measures concerning the ban on smoking in enclosed spaces • Media appearances, guest appearances and press releases • Accent on threatening “human rights of smokers”

In opposing the measures of the ban on smoking in enclosed public places, they particularly promoted various proposals for modification of this measure. Such proposals include, inter alia, leaving the choice whether smoking will be permitted or not to the caterers, leaving the option of having separate areas, leaving a choice to smaller catering facilities up to certain size to be exempted from the ban, etc.

3.7. Recommendations for the implementation of Article 8

1. Introducing a new law on tobacco control at the level of both entities, which is harmonized to the maximum with the Framework Convention on Tobacco Control and the Recommendation for the implementation of Article 8, by having a complete ban on the use of tobacco products in enclosed public places, without the option of having separate areas or premises;
2. Having well defined laws and sanctions for breaches of the ban on smoking, in terms of well-defined responsibilities of the bodies in charge of dealing with breaches;
3. Involving police bodies, which would, on top of inspections, be in charge of sanctions and dealing with breaches of the law;
4. Training and education for all stakeholders, including courts, inspections, police, caterers and others, on new statutory obligations;
5. Education of the public about the new law, the obligations and rights arising thereof;
6. Monitoring and reporting on breaches of the law, related penalties and judgments, with regular public information;
7. Conducting public campaigns in cooperation between civic society organizations and institutions for protection of health aimed at informing the public about the hazards of tobacco smoke and the importance of adherence to the law.

4. ARTICLE 13 – GENERAL PROVISIONS

Although there are legal restrictions applicable to advertising, promotion and sponsorship of tobacco, the situation in the field shows that, very often, the tobacco industry „bypasses“ these restrictions in different ways and performs the aforementioned activities undisturbed.

1. Parties recognize that a comprehensive ban on advertising, promotion and sponsorship would reduce the consumption of tobacco products. 2. Each Party shall, in accordance with its constitution or constitutional principles, undertake a comprehensive ban of all tobacco advertising, promotion and sponsorship. This shall include, subject to the legal environment and technical means available to that Party, a comprehensive ban on cross-border advertising, promotion and sponsorship originating from its territory. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21. 3. A Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles shall apply restrictions on all tobacco advertising, promotion or sponsorship. This shall include, subject to the legal environment and technical means available to that Party, restrictions or a comprehensive ban on advertising, promotion and sponsorship originating from its territory with cross-border effects. In this respect, within the period of five years after entry into force of this Convention for that Party, each Party shall undertake appropriate legislative, executive, administrative and/or other measures and report accordingly in conformity with Article 21. 4. As a minimum, and in accordance with its constitution or constitutional principles, each Party shall: (a) prohibit all forms of tobacco advertising, promotion and sponsorship that promote a tobacco product by any means that are false, misleading or deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions; (b) require that health or other appropriate warnings or messages accompany all tobacco advertising and, as appropriate, promotion and sponsorship; (c) restrict the use of direct or indirect incentives that encourage the purchase of tobacco products by the public; (d) require, if it does not have a comprehensive ban, the disclosure to relevant governmental authorities of expenditures by the tobacco industry on advertising, promotion and sponsorship not yet prohibited. These authorities may decide to make those figures available, subject to national law, to the public and to the Conference of the Parties, pursuant to Article 21; (e) undertake a comprehensive ban or, in the case of a Party that is not in a position to undertake a comprehensive ban due to its constitution or constitutional principles, restrict tobacco advertising, promotion and sponsorship on radio, television, print media and, as appropriate, other media, such as the internet, within a period of five years; and (f) prohibit, or in the case of a Party that is not in a position to prohibit due to its constitution or constitutional principles restrict, tobacco sponsorship of international events, activities and/or participants therein. 5. Parties are encouraged to implement measures beyond the obligations set out in paragraph 4. 6. Parties shall cooperate in the development of technologies and other means necessary to facilitate the elimination of cross-border advertising. 7. Parties which have a ban on certain forms of tobacco advertising, promotion and sponsorship have the sovereign right to ban those forms of cross-border tobacco advertising, promotion and sponsorship entering their territory and to impose equal penalties as those applicable to domestic advertising, promotion and sponsorship originating from their territory in accordance with their national law. This paragraph does not endorse or approve of any particular penalty. 8. Parties shall consider the elaboration of a protocol setting out appropriate measures that require international collaboration for a comprehensive ban on cross-border advertising, promotion and sponsorship.

4.1. Introduction

Global estimates of tobacco advertising costs are not available; however, it is estimated that U.S. cigarette manufacturers alone have spent over 26 billion USD on advertising and promotion of their products between 2011 and 2013.³³ Two tobacco-manufacturing companies use deceitful and aggressive marketing practices in order to increase consumption of their products and to make tobacco seem glamorous or socially acceptable, while dismissing its harmful effects on health.³⁴ Article 13 of the Framework Convention on Tobacco Control (FCTC) of the World Health Organization (WHO) calls for a comprehensive ban on all forms of tobacco advertising, promotion and sponsorship (TAPS), including displaying tobacco products in stores.³⁵ The records show that the tobacco industry responds to partial bans on advertising that regulate only particular forms of TAPS strategy (such as television or radio) by redirecting its resources to advertising its brands through unregulated channels, such as points of sale.³⁶ Many long-term studies have demonstrated that exposure to advertising and promotion of tobacco products increases the likelihood that young people will start smoking.³⁷ Displaying tobacco products at the points of sale has the same effect and impact on behavior as does traditional advertising through the media.³⁸ Advertising in retail in particular has shown that it increases the likelihood of young people starting smoking.³⁹ One study has shown that stores in which adolescents frequently shop may have up to three times more marketing material and shelves for popular tobacco brands.⁴⁰

4.2. Advertising, displaying and sponsorship: Current situation in BiH

The results of a survey in Bosnia and Herzegovina show an alarming state when it comes to smoking prevalence among children. Every sixth child of the age 13 to 15 in Bosnia and Herzegovina is a regular smoker. It is significant that more than one third of young people declare that they have started smoking before the age of 10.⁴¹

Mostly responsible for such statistics is the tobacco industry, aiming its marketing tactics exactly at the children and youth, for a very specific reason.

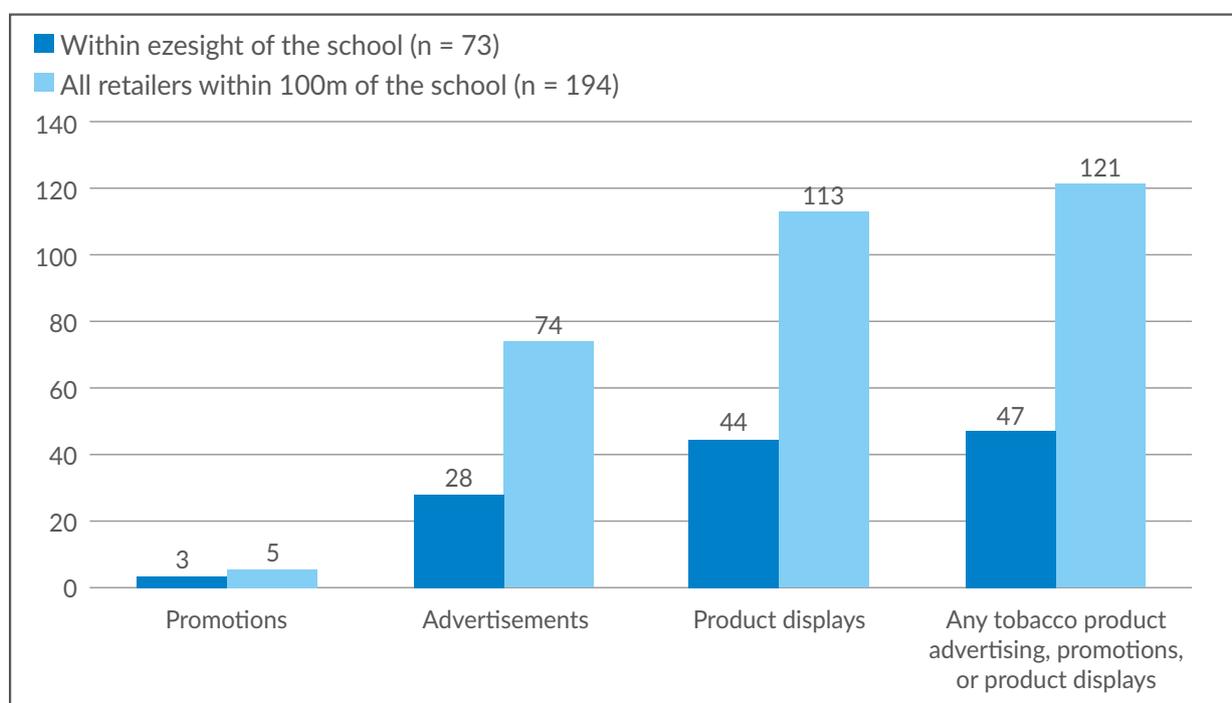
Namely, it is well known that the majority of smokers start smoking before the age of 18, which is something the tobacco industry is very much aware of.⁴² For this reason, it is of utmost importance for the industry to reach these potential smokers while they are still minors and hence secure for itself billions in revenues in the future. To this end, through their marketing, they use various techniques – starting with attractive packaging, promoting the approach that smoking is cool, adding flavors and scents to cigarettes in order to avoid tobacco smell at retail outlets, and sponsoring events and various articles.

When it comes to the Federation of Bosnia and Herzegovina, since there are provisions governing exceptions in advertising which are defined in the Law on Restricted Use of Tobacco Products in FBiH („Official Gazette of the Federation of BiH“ no. 50/11), the Law is not harmonized with the Framework Convention on Tobacco Control.⁴³ The Law on the Ban on Advertisement of Tobacco Products in Republika Srpska (published in the "Official Gazette of RS", no. 46 from 21 May 2004, 74/04, 96/05, 92/09) also contains exceptions to the ban on advertising, which is why this Law is also not entirely harmonized with the Convention. Exceptions to advertising in both entities refer to publishing of information in professional literature, magazines and other publications intended for professional education of staff, technical and technological improvement of the manufacturing process, whereas the Law in FBiH includes a provision emphasizing that posting the manufacturer's brand is not considered advertising. The current Brčko District Law on Smoking does not regulate issues of advertising, promotion and sponsorship of tobacco. The Draft Law on the Ban on Smoking and Other Forms of Use of Tobacco Products in Public Places in Brčko District BiH does not contain provisions regulating these issues.⁴⁴

The manner of sale, sponsorship and advertising is not a coincidence, but a marketing strategy. It is not a coincidence that tobacco products are largely sold in the vicinity of schools, it is not a coincidence that cigarettes are displayed at points of sale at the eyelevel of children, it is not a coincidence that cigarettes are displayed together with toys, snacks and candies, or that health warnings are being covered.

According to the results of the survey Male Mete, which has been conducted by PROI Association in partnership with the Institute for Tobacco Control with the Bloomberg School of Public Health, 96% of all retail outlets in the immediate vicinity of primary and secondary schools in the Sarajevo Canton have had tobacco products on display, while this percentage in Mostar is 100%. As many as 94% of tobacco products displayed in these points of sale in the Sarajevo Canton and 48% in Mostar have been displayed next to snacks, candies and toys.⁴⁵

Graph 1 – Number of retail tobacco shops in Sarajevo with tobacco products being advertised, promoted or displayed so that they are visible from the outside⁴⁶



/Within the line of sight of a school (no. = 73); All retail shops within the perimeter of 100m from the school (no. = 194); Promotions; Advertisements; Product display; Advertising, promotions or displays of any tobacco product/

Despite the ban on advertising tobacco products on radio and television, promotional materials and the ban on sponsoring cultural and sporting events, tobacco companies in BiH use various tactics to advertise themselves and their products, despite these bans. One such method is „concealed advertising“ by using recognizable logos and slogans, promotional activities on sporting and cultural events, while at the same time displaying tobacco products at points of sale, which is not prohibited by law in the Federation of BiH or in the Republika Srpska, is used to the maximum for the purpose of advertising. Even though banners and posters are forbidden, the very manner of product displaying, framing, adding light and other effects fulfils the same function as advertising, which would have been forbidden if it were in a different form. The bans on advertising that are currently stipulated by the laws are sometimes breached, while other times they are simply “circumvented” through various manipulations and techniques, which can be seen in visual examples given in the next chapter.

4.3. Visual examples: Advertising, sponsoring and displaying tobacco products

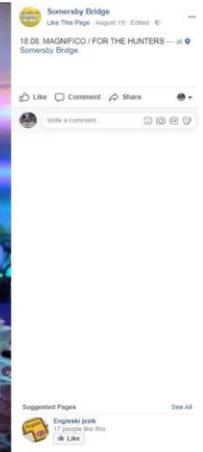
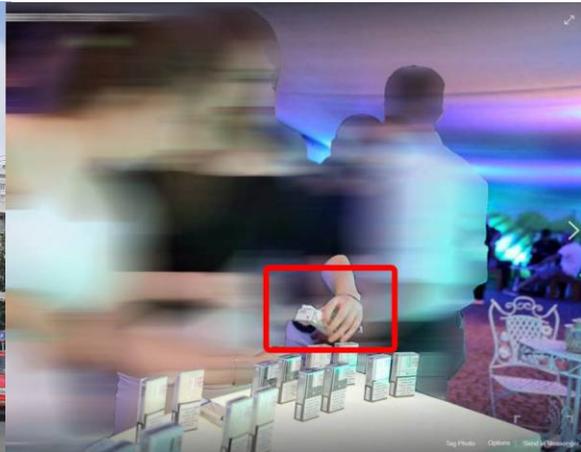


Figure 1: Advertising tobacco products by using recognizable slogans and logos, without actually showing the product itself

Figure 2: Promotional activities within a cultural/entertainment event



Figure 3: Promotional activities within a cultural/entertainment event

Figure 4: Highlighting the name of a cigarette brand on the uniforms of the "Sarajevo" Football Club



Figures 5: Examples of paid articles



Figure 6 and 7: Sponsoring cultural events



Figure 8, 9 and 10: Displaying tobacco products in the vicinity of schools in Sarajevo. In many cases, tobacco products are displayed next to snacks, toys and candies. The ban on advertising in form of posters and banners is substituted by tobacco companies by displaying products in decorated frames and with special light effects

4.4. Recommendations for the implementation of Article 13

1. A partial ban on displaying, advertising tobacco products and sponsorship makes it possible for the industry to exploit the flaws or holes in the law and to direct its resources onto means that are not regulated, that are poorly defined or poorly implemented. Studies have shown that exposure to advertising increases the likelihood that children will start smoking,⁴⁷ while the law does not effectively protect children from this potential harm, given the manner in which it is currently applied and implemented.
2. A complete and forced ban on displaying tobacco products, advertising and sponsorship would be in accordance with the recommendations of FCTC and it would increase the effectiveness in attaining the goal of protecting the public from the hazards of tobacco products.

5. CONCLUSION

The current legislation in both entities is not harmonized with the Framework Convention on Tobacco Control of the World Health Organization, even though Bosnia and Herzegovina has ratified it back in 2009. The laws on tobacco control exist at the level of both entities (Federation of Bosnia and Herzegovina and the Republika Srpska). In both entities, initiatives have been launched and the procedures for enactment of new laws on tobacco control are underway.

The biggest challenge to the introduction of new measures of tobacco control comes from the tobacco industry, which actively uses various tactics to oppose the introduction of more comprehensive measures of tobacco control, all to the end of modifying and postponing the enactment of new laws that could jeopardize its profit interests. Mobilizing representatives of associations of caterers and associations for “human rights of smokers” is also one of the tactics present in their advocating against the new law.

In further process of ensuring comprehensive measures of tobacco control, it is necessary to create a mechanism for protection from interference of the tobacco industry with the decision making processes, primarily by creating mechanisms for prevention of breaches of Article 5.3 of the Framework Convention on Tobacco Control and by monitoring the interactions of the tobacco industry and its tactics in advocating against the introduction of tobacco control measures.

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