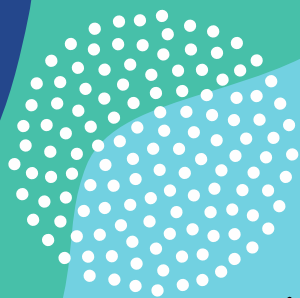


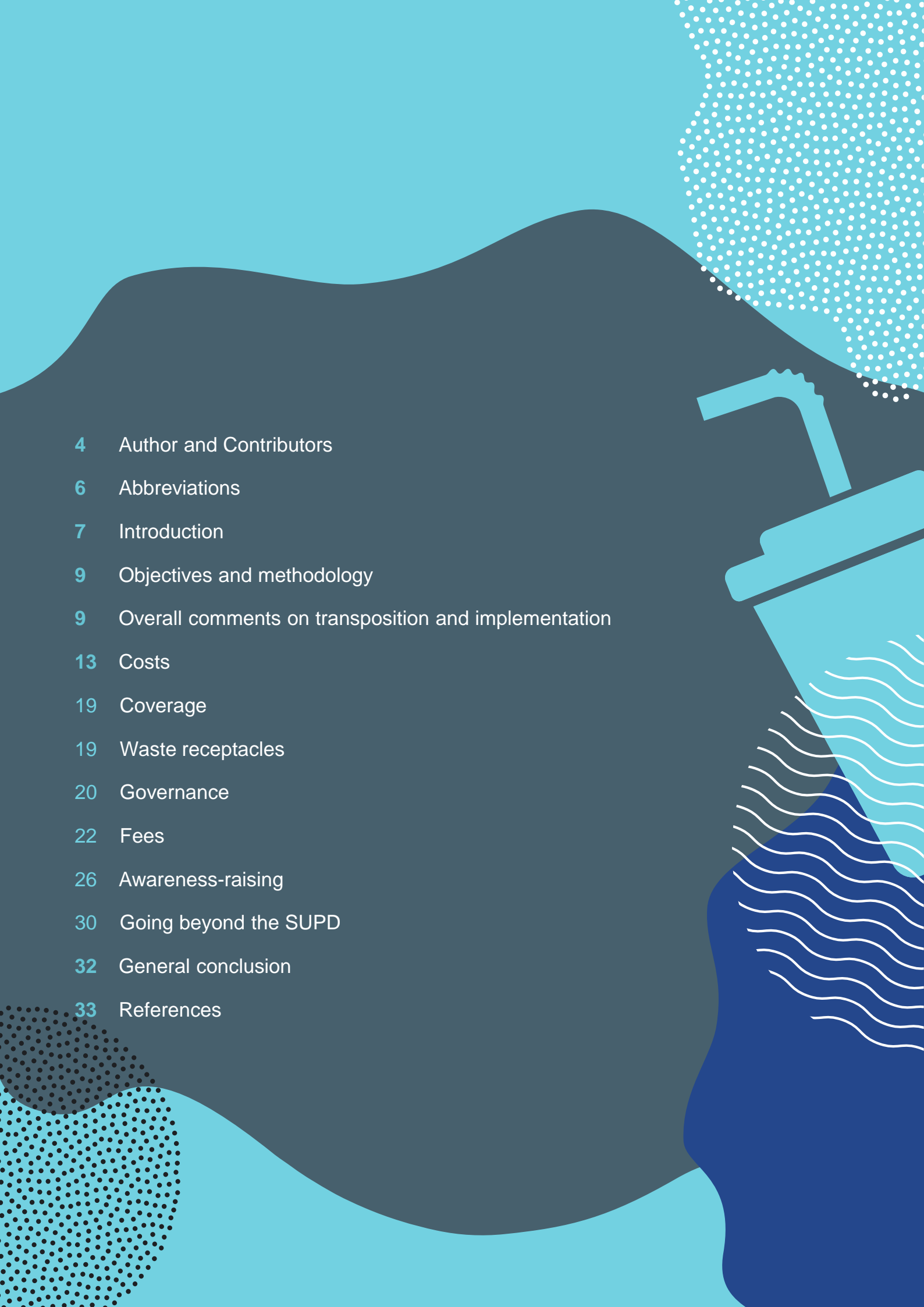
# Single Use Plastics Directive Implementation Assessment Report

February 2024

Focus on Extended Producer  
Responsibility schemes on  
tobacco-related products

# Big tobacco: poisoning (long-due) extended producer responsibility schemes





4	Author and Contributors
6	Abbreviations
7	Introduction
9	Objectives and methodology
9	Overall comments on transposition and implementation
13	Costs
19	Coverage
19	Waste receptacles
20	Governance
22	Fees
26	Awareness-raising
30	Going beyond the SUPD
32	General conclusion
33	References

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## Abbreviations:

<b>EPR</b>	<b>Extended Producer Responsibility</b>
<b>EU</b>	<b>European Union</b>
<b>FCTC</b>	<b>Framework Convention on Tobacco Control</b>
<b>NGO</b>	<b>Non-Governmental Organisation</b>
<b>PRO</b>	<b>Producer Responsibility Organisation</b>
<b>SUP</b>	<b>Single-Use Plastics</b>
<b>SUPD</b>	<b>Single-Use Plastics Directive</b>
<b>UN</b>	<b>United Nations</b>
<b>WFD</b>	<b>Waste Framework Directive</b>
<b>WHO</b>	<b>World Health Organisation</b>

# INTRODUCTION

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Cigarette butts are the most commonly found litter worldwide in clean-up activities with over 4.5 trillion estimated to be discarded annually. Cigarette butts are found in almost all environments: they are found massively along roadways, along waterways, on the beach but also in parks and playgrounds, and in cities. As our citizen science projects prove, cigarettes have constantly been the number one litter item picked up on European beaches, in city streets or along water bodies during the Surfrider Europe's Ocean Initiatives: 2,409,580 cigarette butts were collected in 2022 (1). In 2022, cigarette butts were collected in 89% of our operations and there were 1072 cigarette butts counted on average at each clean-up organised that year. And in every country where Ocean Initiatives took place, cigarette butts were found. At global level, of the 137 million cigarette butts discarded onto the ground every day, 40% end up in the oceans.

Two-thirds of the weight of a cigarette corresponds to the filter. This is the part of the cigarette made from plastic, specifically cellulose acetate. The filter is very light and once thrown on the ground, it will be swept away by the wind and rain towards sewer drains and waterways, eventually ending up in the ocean. Once into the water, the butts break down little by little and generate micro and nano plastics which can no longer be collected. Cigarette butts contain multiple and different chemical substances (up to 4 000). These include heavy metals such as mercury, cadmium and lead as well as pesticides, phenols, nicotine and tar. 1 cigarette butt can pollute up to 1000 litres of water, making it unsuitable for consumption, harming local plants and wildlife as well as the food chain.

With less than six months to go till the next European elections, European citizens called to vote will reflect on what the European Union (EU) has achieved so far – for them and for what they care about – and what it can achieve in the future. Many will remember the European Directive on single-use plastics (SUPD) as one of the most impactful EU texts in the last few years, in light of its positive influence both inside and outside of the EU. This Directive brought concrete change on the ground with a series of measures that needed to be transposed at national level that would reduce the impacts of single-use plastic items – or at least those most frequently found on European beaches – on the environment.

Yet, a simple walk on the beach can seriously alter this: the Directive has not completely delivered to date, and some of the measures it introduced still remain to be implemented and enforced. This is partly because some of the measures laid down in the Directive have not yet been implemented, as was the case for the introduction of extended producer responsibility (EPR) schemes on tobacco products with filters and filters marketed for use in combination with tobacco products, which was due at the beginning of 2023. Tobacco products with plastic filters and plastic filters were indeed among the single-use plastic items that the Directive addresses. One of the flagship measures the Directive introduced in its Article 8 was the establishment of extended producer schemes for these products in recognition of the 'polluter pays' principle. These schemes aimed to make the polluters, namely tobacco companies and filter producers, responsible for the costs associated with the end of life and waste stage of single-use plastic filters. Other measures included marking requirements and awareness raising as from mid-2021.

# Objectives & Methodology

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This report aims to provide an update on the implementation status of the EPR measures on tobacco products exactly one year after they were due. It also identifies shortcomings in the way the measure was first laid down in the Directive and transposed at national level, as well as in the way the EPR schemes were set, and explores potential ways forward through a concrete set of recommendations.

The information presented in this report comes from three main sources:

- A survey and data collection exercise involving Surfrider Foundation Europe chapters and national entities, Seas at Risk members and organisations from the Break Free From Plastic movement in Europe, which are monitoring the implementation of the Single-Use Plastics Directive in their country.
- Desk research conducted by volunteers from the United Nations Volunteers programme and by the author.
- National public authorities' websites and adopted national legislative acts.

Disclaimer: Surfrider Europe has taken due care in the preparation of this report to ensure that all facts relating to the implementation status of EPR schemes are as accurate as possible. This report is not intended though to provide an exhaustive overview of the implementation of the EPR schemes on tobacco products with filters and on filters but rather to draw first conclusions and share recommendations on the basis of the information we could gather. With this report, we hope to inspire Member States that are late or lack ambition in the implementation of the EPR schemes on tobacco-related products, and EU institutions, to take stock for the purposes of the evaluation of the Single-Use Plastics Directive. According to the EU text [\(2\)](#), this evaluation should be carried out prior to 3 July 2027 and review in particular the measures taken under this Directive as regards single-use plastic tobacco-related products. A specific report shall set out the main findings and potentially look at other policy options. It shall also, if appropriate, be accompanied by a legislative proposal.



# Overall comments on transposition and implementation across Europe

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A large number of Member States had previously incorporated the EPR scheme measures into their national laws, transposing the Single-Use Plastics Directive but opting for a rather basic implementation of the Directive requirements. Some have just adopted laws making EPR schemes effective in complement to initial transposition laws, such as **Estonia** in May 2023. **Poland** stands out with its delayed and recent adoption of a law transposing the SUPD in April 2023, implying that the deadline for complying with the setting of EPR scenes will not be respected. This also the case of **Germany** with a deadline set in 2024 for the EPR schemes on tobacco-related products following the adoption in 2023 of its Disposable Plastic Fund Act. In the similar vein, at the end of 2023, we were still awaiting the publication (3) of the final decree on the management of tobacco-related waste in **Spain**, indicating that the deadline of January 2023 had not been respected. As comments (4) on the draft Spanish decree prove, discussions in October 2023 were still ongoing on its content. The situation is similar in **Slovakia** with a deadline set at the end of 2024, almost two years after the deadline set at EU level.

In most cases, Member States have transposed the Directive by copying and pasting the wording of the EU text without further specification or details, making these measures de facto non-operational. Some, such as **France**, left specifications for implementing acts to be adopted at a later stage. As a matter of fact, in a majority of Member States, the schemes are not in place or have only just started running such as in the **Czech Republic** where the collective Producer Responsibility Organisation (PRO) was set by law in October 2023, and discussions are only starting now on the finer details. **Cyprus** is emblematic of this situation with requirements still being discussed by its Parliament. **Estonia** also set in its legislative act a different deadline – 1st January 2024 – than the one set in the EU Directive that was 5th January 2023. In **France**, the deadline for the EPR schemes on tobacco-related products set in the transposition law was January 1st, 2021. Yet, in practice, the EPR scheme started to run later following an appeal initiated by the Federation of Cigar Manufacturers on the consultation process on the specifications of the PRO.

Country	Transposition act(s) with main articles of interest
Austria	<p><a href="#">Ordinance of the Federal Minister for Climate Action, Environment, Energy, Mobility, Innovation and Technology amending the Packaging Ordinance 2014 (Packaging Ordinance Amendment 2021)</a></p> <p>Section 5. Article 18a &amp; Annexe 6 Point 2.3</p>
Belgium	<p>Wallonia: <a href="#">Decree on waste, the circularity of materials and public cleanliness</a></p> <p>Brussels capital: <a href="#">Decree of the Government of the Brussels-Capital Region of 23 June 2022 amending the Decree of the Government of the Brussels-Capital Region of 1 December 2016 on waste management and related provisions</a></p> <p>Flanders: was not found</p> <p>Federal/ Interregional cooperation agreement: <a href="https://www.uvcw.be/no_index/files/11319-accord-de-coop%C3%A9ration.pdf">https://www.uvcw.be/no_index/files/11319-accord-de-coop%C3%A9ration.pdf</a> Book III Provisions on extended producer responsibility for litter</p>
Bulgaria	<p><a href="#">Ordinance on Reducing the Impact of Certain Plastic Products on the Environment</a> Chapter V</p>
Croatia	<p><a href="#">Waste Management Act 84/2021</a> Chapter X</p>
Cyprus	<p><a href="#">Draft regulation for the management of waste filter tobacco products</a> now being discussed at Parliament level</p>
Czech Republic	<p><a href="#">Act No 243/2022 on reducing the environmental impact of selected plastic products</a> Paragraph 10 (+part 3)</p> <p>Decree No. 47/2023</p>
Denmark	<p><a href="#">Statutory Order nr 1277 of 11/09/2022</a></p>
Estonia	<p><a href="#">Act amending the Waste Act, the Packaging Act and the Tobacco Act</a> Paragraph 23 and 24 of the Waste Act</p>
Finland	<p><a href="#">Decree 1096/2022</a> Paragraph 48</p>

Country	Transposition act(s) with main articles of interest
France	<p><a href="#">Anti-waste law for a circular economy n° 2020-105</a> Article 62</p> <p><a href="#">Decree of November 23, 2022 on the specifications of the eco-organizations and individual systems of the extended producer responsibility schemes for tobacco products</a></p>
Germany	<p><a href="#">Single-use plastic fund</a> (BGBl. 2023 I No. 124, 11 May 2023)</p> <p><a href="#">Regulation on the levy rates and the points system of the single-use plastic fund</a> (Single-use plastic fund regulation — EWKFondsV, 17 October 2023).</p>
Greece	<p><a href="#">No. 4736/2020 National Law (Government Gazette A' 200/20-10-2020)</a> Articles 10 and 12</p>
Hungary	<p><a href="#">Government decree 349/2021. (VI. 22.) on reducing the impact of individual plastic products on the environment</a> Article 10/A and annexes 1 and 2</p> <p><a href="#">Government decree 108/2023 amending above decree</a></p>
Ireland	<p><a href="#">S.I. No. 609/2022 - European Union (Extended Producer Responsibility) (Tobacco Filters Containing Plastic) Regulations 2022</a></p>
Italy	<p><a href="#">Italian Legislative Decree No. 196 of 8 November 2021</a> Article 8</p>
Latvia	<p><a href="#">Law to decrease plastic-containing products</a> Section III Articles 8 and 10</p> <p><a href="#">Cabinet Regulation No 781 of 13 December 2022 on the establishment and application of an extended producer responsibility system for products containing plastic.</a></p>
Lithuania	<p><i>Not found</i></p>
Luxembourg	<p><a href="#">Law of July 9, 2022 relating to the reduction of the impact of certain plastic products on the environment</a> Article 8</p>
Malta	<p><a href="#">Legal notice n°237 of 2022 - Single-Use Plastic Framework Regulations, 2022</a> Regulation 7</p>
the Netherlands	<p><a href="#">Decree on single use products</a> Article 5</p>
Poland	<p><a href="#">Act of April 14, 2023 amending the Act on entrepreneurs' obligations regarding the management of certain waste and the product fee and other acts</a></p>
Portugal	<p><a href="#">Law n.º 88/2019 of 2nd September 2019</a> Article 8</p> <p><a href="#">Decree-law n.º 83/2022 of 9th December 2022</a></p>

Country	Transposition act(s) with main articles of interest
Romania	<a href="#">Ordinance no. 6 of August 25, 2021 regarding the reduction of the impact of certain plastic products on the environment</a> Chapter VIII
Slovakia	<a href="#">Law no. 430/2021 Z. z. from 2nd of November 2021</a>
Slovenia	<a href="#">Decree on the reduction of the impact of certain plastic products on the environment</a> Articles 6 and 9
Spain	<a href="#">Law 7/2022 regarding waste, ground pollution and circular economy</a> Article 60 <a href="#">Project of royal decree relating to the management of waste from tobacco products with filters and filters marked for use with tobacco products</a>
Sweden	<a href="#">Regulation on producer responsibility for certain tobacco products and filters</a>

# Costs

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## Provisions under the SUP Directive

According to the Directive, when setting extended producer schemes on tobacco products, Member States had to ensure that the producers of the tobacco products with filters and filters marketed for use in combination with tobacco products covered at least the cost of the following: the awareness-raising measures referred to in the Directive; cleaning up litter and the subsequent transport and treatment of that litter; data gathering and reporting; and finally waste collection for the cigarette butts that are discarded in public collection systems and their subsequent transport and treatment.

The Directive also indicated that the costs to be covered should not exceed the costs that are necessary to provide the services referred to therein in a cost-efficient way and should be established in a transparent way between the actors concerned. In most Member States, this wording was re-used. Additionally, the EU text indicated that they should be limited to activities undertaken by public authorities or on their behalf. It laid down that the calculation methodology should be developed in a way that allows for the costs of cleaning up litter to be established in a proportionate way. To minimise administrative costs, Member States were given the possibility of determining financial contributions towards the cost of cleaning up litter by setting appropriate multiannual fixed amounts. Finally, according to the Directive, the Commission is to publish guidelines for criteria, in consultation with Member States, on the cost of cleaning up litter. But close to one year after the deadline set for the establishment of the EPR schemes, these guidelines had not yet been published by the Commission. It is important to note that this absence of guidelines has been used by some Member States to justify the fact that EPR schemes have not yet been set at the national level.

## Implementation at national level

Most Member States simply copied and pasted the list of costs to be covered as laid down in the EU text. But **Italy** introduced a precision in its transposition law indicating that the costs were to be established in proportion to the weight of the plastic component in relation to that of the product. In a similar fashion, **Slovenia** introduced an exemption for tobacco producers in its transposition law stating that they don't have to cover the costs for awareness-raising contrary to what the Directive stipulates.

## Waste generated by tobacco products goes beyond cigarette butts...

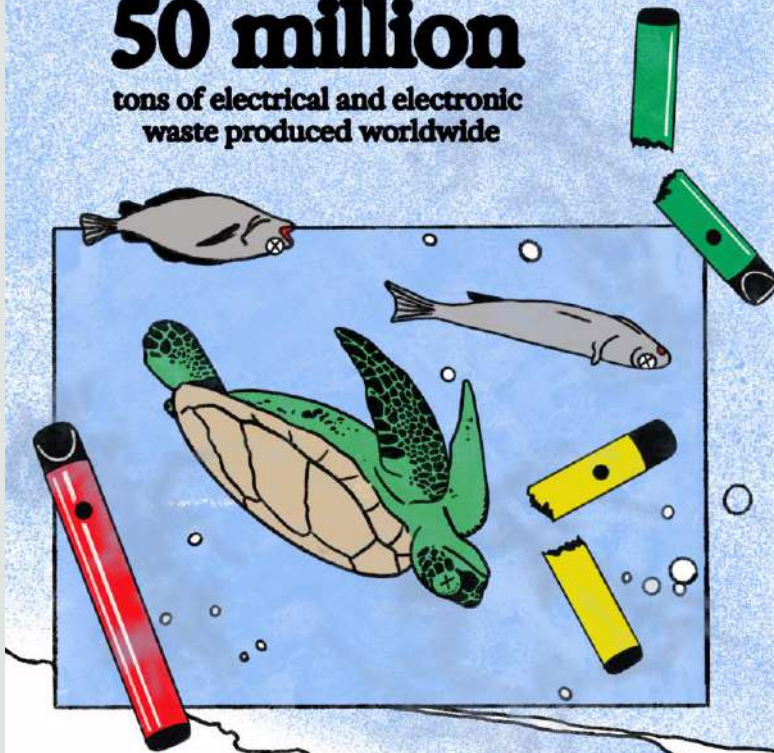
Every year, tobacco products generate an astronomical amount of waste, comprising over 680,000 tonnes of cigarette butts or 4.5 trillion cigarette butts being thrown on the ground per year, approximately 907,184 tonnes of waste from tobacco manufacturing, and an estimated 25 million tonnes from the complete tobacco life cycle.

This is not to mention the impact and waste associated with new electronic tobacco products, such as e-cigarettes and heated tobacco, which are increasingly being found on EU beaches and have a similar, devastating impact on the environment. Many of these electronic cigarettes, or 'puffs' are disposable and can therefore be categorised as single-use plastics.

...and their impact is not reduced to waste pollution.

# 50 million

tons of electrical and electronic waste produced worldwide



## The industry is renewing itself and polluting more and more.

Cigarette butts are now joined by new types of waste: disposable electronic cigarettes, or "puffs". These new marketing products offered by the industry are made of plastic and lithium batteries, contributing to the already-existing plastic and electronic pollution.

These devices add to the over 50 million tons of electrical and electronic waste produced worldwide. Batteries, which already require a great deal of water for lithium extraction, release heavy metals (such as mercury, lead, and bromine), acid, and nicotine when they end up in the environment, damaging the health of our ecosystem.

Designed for single-use and non-recyclable, as the batteries are directly moulded into the plastic, these disposable electronic cigarettes contribute to global plastic pollution.

## To summarize...

Every year, tobacco products generate an astronomical amount of waste, comprising over 680,000 tons of cigarette butts, approximately 907,184 tons of waste from tobacco manufacturing, and an estimated 25 million tons from the complete tobacco life cycle. This is not to mention the impact and waste associated with new electronic tobacco products, such as e-cigarettes and heated tobacco, which also have a devastating impact on the environment.



# 680 000

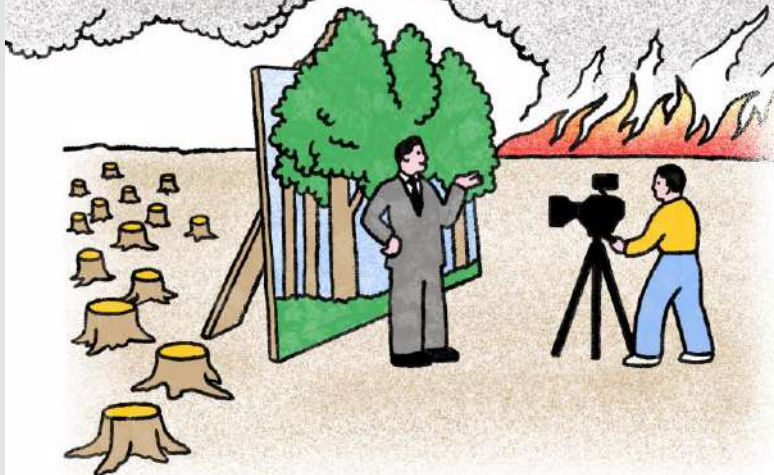
tons of cigarette butts

# 907 184

tons of waste from tobacco manufacturing

# 25 million

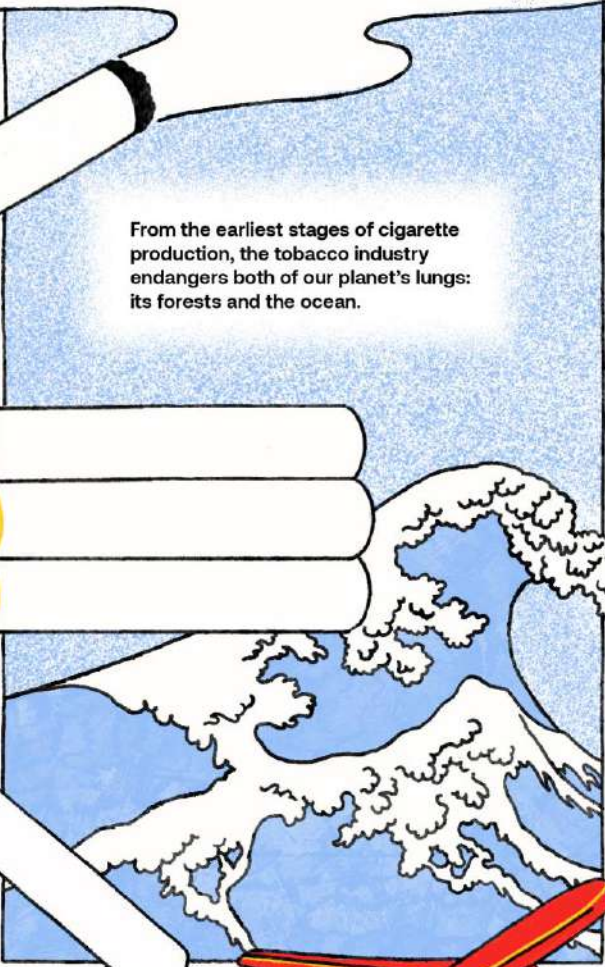
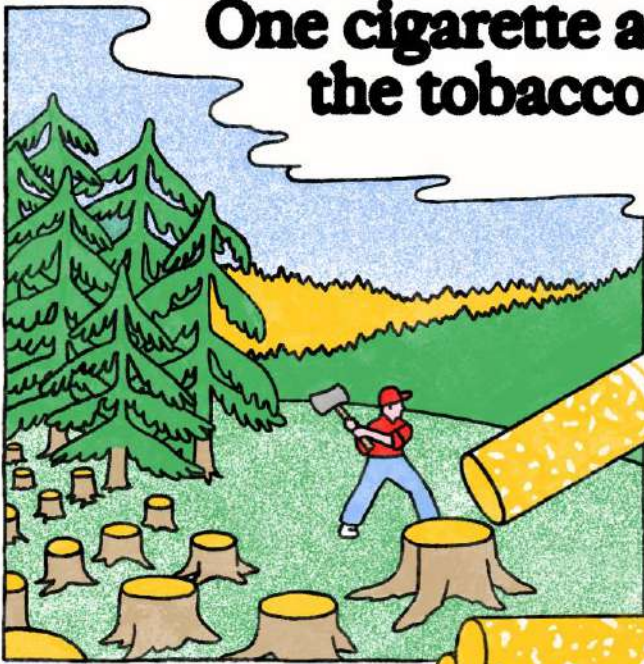
tons of waste from the complete tobacco life cycle



Faced with this alarming reality, the tobacco industry tries to conceal the harmful consequences of tobacco farming, production, consumption, and waste on the environment, ocean, farmers, and communities. The industry employs deceptive tactics, engaging in seemingly positive environmental activities like tree planting, anti-litter campaigns, and donations to environmental organizations, all aimed at hiding the true extent of the impacts.

It is urgent to enforce the polluter-pays principle and hold tobacco companies accountable for the decades-long damage they have caused, including harm to ecosystems and ocean life.

# One cigarette at a time, the tobacco industry is turning the ocean to ashes



From the earliest stages of cigarette production, the tobacco industry endangers both of our planet's lungs: its forests and the ocean.

## The tobacco industry is suffocating our planet.

It all starts at the root, where tobacco cultivation destroys lands and forests. This deforestation, in turn, exacerbates climate change, leading to increased ocean acidity and temperatures that profoundly affect marine life.

Each year, 600 million trees and 200,000 hectares of land are sacrificed to tobacco cultivation and leaf curing, resulting in soil depletion, loss of biodiversity, and desertification.

**200 000**  
hectares of land  
are sacrificed each year

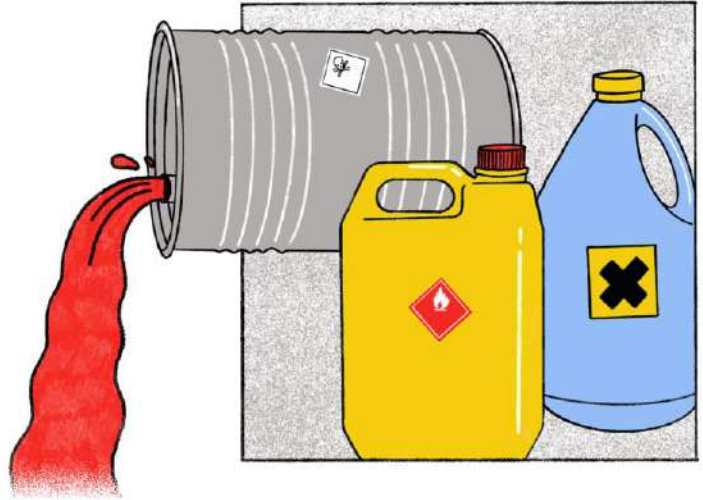


The tobacco industry's production, processing, and transportation activities contribute significantly to global warming, with a carbon footprint equivalent to 1/5th of the annual CO2 emissions from the commercial airline industry, increasing the risk of irreversible loss of marine and coastal ecosystems.



## Tobacco: a thirsty and polluting crop

It takes 3,7L of water to make one cigarette.



Tobacco cultivation involves substantial use of chemicals, such as pesticides, fertilizers, and growth regulators, which contaminate the soil, groundwater, and aquatic ecosystems through runoff.

# 22 billion

tons of water devoured each year by world tobacco production



# 7,000

toxic chemical substances released into the water

### ...poisoning marine ecosystems.

Microplastics and chemicals present in cigarette butts have a profound impact on fauna and flora as soon as they enter the environment:

- the growth of marine plants is inhibited, jeopardizing the quality of water and marine life.
- aquatic organisms, birds, mammals, turtles, and crabs can ingest these plastics and pollutants, adversely affecting their behaviour, reproduction, and health.

In fact, laboratory studies further reveal that cigarette butt waste can release enough toxins to cause a 50% mortality rate in fish within 96 hours.

# 50%

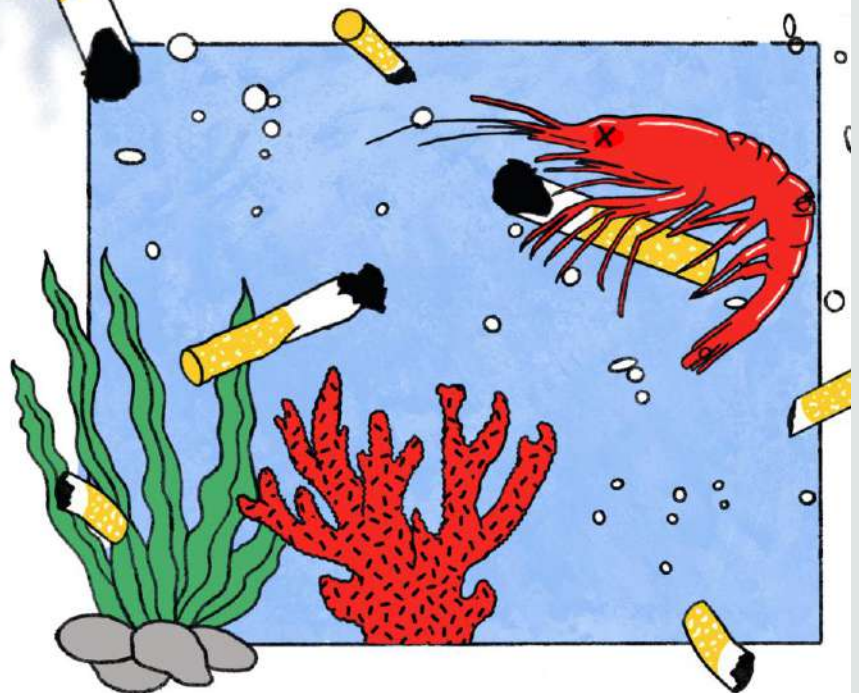
Fish mortality rate within 96 hours caused by cigarette butt toxins

# 4.5 trillion

cigarette butts are thrown on the ground and end up in waterways and the ocean

### The cigarette butt, a toxic plastic bomb...

Each year, 4.5 trillion cigarette butts are thrown on the ground and end up in waterways and the ocean. These cigarette butts, mainly made of plastic (cellulose acetate), break down into micro and nano plastic particles when exposed to water, releasing the 7,000 toxic chemical substances they contain, such as nicotine, arsenic, mercury, ammonia, and lead. Specifically, nicotine from the butts can seep into water within 24 hours, potentially contaminating up to 1,000 litres of water and persisting in sediments for at least 60 days.





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## Our recommendations

The Directive lists a minimum of costs that should be covered by operators, meaning other costs may be accounted for in the extended producer responsibility schemes to be implemented at national level. We recommend that the European Commission makes this explicit when sharing its guidelines with national authorities and that national authorities incorporate more costs than those laid down in the EU text.

Indeed, the costs linked to the presence of tobacco products with filters and filters that would need to be covered too should include (list is not exhaustive):

- The economic costs resulting from the environmental impacts of this pollution: chemical toxins that leach from the butts and are responsible for habitat deterioration, and the impact on biodiversity that results from the plastic and microplastic particles they emit; impacts on businesses, including coastal and blue economy activities such as tourism, fisheries, etc.
- The costs of depollution: with cigarette butts containing toxins, restoring an environment that was polluted with cigarette butts requires not only collecting the plastic filters (automated, mechanised and manual collection, removal from stormwater and wastewater) but also involves removing the chemicals that are unleashed from the butts.
- The health costs resulting from the exposure of the public to plastic resulting from cigarette butts in the environment.
- Policy development and implementation of smoke-free areas (for example signage, control costs, etc...)
- Implementation and set-up of fines nationally.
- Research on the chemical pollution resulting from the littering of tobacco products with filters and filters.

Every attempt by tobacco players to reduce the costs incurred to them should be rejected. In that sense, we strongly recommend that no specification like the one incorporated into the Italian transposition law to minimise the costs eventually paid by tobacco players should be introduced in the national transposition laws and decrees. Today, without even having to mention all the other costs that the tobacco industry imposes on society as a whole, the economic costs of the pollution generated by tobacco products with filters and filters are massively assumed by local authorities and NGOs, so eventually by taxpayers and citizens, which is neither acceptable nor sustainable.

# Coverage

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A few countries have introduced precisions on the coverage of the EPR schemes, be it in terms of number of citizens concerned or types of spaces covered. In addition to setting a reduction target of waste associated with tobacco products with filters, **Cyprus** has been also discussing the introduction of minimum objectives in terms of EPR coverage, defining further the type of spaces and areas it aims to cover. According to its draft act, the EPR systems would need to cover at least 80% of all beaches publicly designated as such, at least 70% of all public parks and other public spaces. Interestingly, **Croatia** also includes public events and festivals in the coverage of its EPR system, setting the target of covering at least 70% of all public events and festivals held annually. Finland also listed in its legislative act the areas subject to cost responsibility (5). **France**, in relation to the provision of ashtrays (see the following section), has planned that the number of local authorities which have established a contract with the PRO, represents at least 50% of the national population as of December 31, 2023, 75% as of December 31, 2024, and 90% as of December 31, 2025.

# Waste receptacles

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## Provisions under the SUP Directive

With regard to the cost of cleaning up litter, Article 10 of the Directive specifies that these costs may include the setting up of a specific waste collection infrastructure for the collection of these products, such as appropriate waste receptacles in common litter hotspots.

## Transposition and implementation at national level

In many countries, the ‘may’ from the EU text was removed and the coverage of waste collection infrastructure was made compulsory. **Finland** laid down in a decree (6), targets on the minimum number and placement of ashtrays or collection containers for cigarette butts: from the 1st of January 2024, 1 collection container per 900 inhabitants; from the 1st of January 2025, 1 collection container per 600 inhabitants; and from the 1st of January 2026, 1 collection container per 300 inhabitants. In **France**, the PRO established to fulfil the EPR obligations on SUP tobacco-related products was supposed to have covered the costs incurred by public authorities for the deployment of street ashtrays for at least half of the population. Nevertheless, in November 2023 the Ministry of Environment sanctioned Alcome with a fixed daily fine, for its delay in implementing the financial mechanism for paying this contribution. In December 2023, though, the situation was solved. In **Greece**, the EPR scheme goes hand in hand with a three-year pan-Hellenic cleaning program. The first plan was decided for 2023-2025.

# Governance of extended producer responsibility schemes


## Provisions of the Directive

- Member States shall define in a clear way the roles and responsibilities of all relevant actors involved.
- Each Member State shall allow the producers established in another Member State and placing products on its market to appoint a legal or natural person established on its territory as an authorised representative for the purposes of fulfilling the obligations of a producer related to extended producer responsibility schemes on its territory.
- Each Member State shall ensure that a producer established on its territory, which sells tobacco products with filters and filters marketed for use in combination with tobacco products in another Member State in which it is not established, appoints an authorised representative in that other Member State. The authorised representative shall be the person responsible for fulfilling the obligations of that producer pursuant to this Directive on the territory of that other Member State.

EPR schemes may be established either as an individual producer responsibility scheme, where a producer organises their own system, or as a collective system where several producers from the same sector decide to collaborate and fulfil their extended producer responsibility collectively through a specific organisation known as Producer Responsibility Organisation (PRO). PROs are normally created as a third party to coordinate and operate the collection, sorting, and managing of the items after they have become waste/litter. PROs are responsible for setting up, developing and maintaining the EPR scheme.

## Implementation at national level

This collective system was for example the only option offered to tobacco industries to fulfil their EPR obligations in **Cyprus** (7). As part of this collective system, direct interactions are foreseen with local authorities. As a matter of fact, the absence of cooperation between local authorities and tobacco producers was identified as a potential issue and the Minister offered to act as a mediator between the two parties, in case of issues, which makes the breach of the WHO Framework Convention on Tobacco Control (see below) even more obvious and explicit in the case of Cyprus. This is the format that was chosen by tobacco companies in **France** to respond to their EPR obligations under the French transposition law. They created ALCOME, a PRO responsible for setting up, developing and maintaining the EPR scheme on behalf of their tobacco companies. With this system, tobacco companies in the French market pay their fees to ALCOME, which in return pays the waste management operators to collect and treat filters either found in public bins and collection systems or littered in public spaces. As an industry-led PRO, it is supervised by public authorities to ensure it fulfils its roles and responsibilities. In the **Czech Republic**, this PRO organisation is called 'Nevajgluj'. It is called ERION Care in **Italy** (8), Valorlux in **Luxembourg** and SPAK-EKO in **Slovakia**. ERION Care is a Consortium - set up in 2022 by 4 tobacco companies, namely British American Tobacco, Imperial Brands, JT International and Philip Morris. The Slovak branches of this same consortium (9) are behind SPAK-EKO in Slovakia. Conversely, some Member States have allowed filter producers to organise themselves as they wish in order to assume their EPR obligations, as is the case in Luxembourg or Latvia. In Germany, the situation in terms of collusion between tobacco producers and national authorities took other turns with, in addition to the establishment of a PRO scheme involving tobacco



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producers and public authorities, the setting of a “Single-Use Plastics Commission” which includes a tobacco company as one of its members. This Commission is in place to advise both the Federal Ministry for the Environment, Nature Conservation, Nuclear Safety and Consumer Protection and the Federal Environment Agency.

### **Our recommendations**

National authorities must set EPR systems that exclude the producers of tobacco products with filters and filters and any tobacco sector player from the governance of the EPR scheme and from any decision or any activity conducted on behalf of the scheme, in compliance with Article 5.3 of the WHO Framework Convention on Tobacco Control. As acknowledged by the WHO FCTC to which the EU and each Member States are parties, **there is a fundamental and irreconcilable conflict of interest between the tobacco industry and public health and environment.** The freedom left to Member States in the setting of EPR systems on these products with the possibility given for tobacco products to interact directly with public authorities goes far beyond what is "strictly necessary", as defined in Recommendation 2.1 of the Guidelines of Article 5.3 WHO FCTC: “Parties should interact with the tobacco industry only when and to the extent strictly necessary to enable them to effectively regulate the tobacco industry and tobacco products.”. There is therefore an imperative to rethink the governance of EPR schemes and not to apply business as usual. This is all the more important given that in practice many PROs have historically used their position to lobby against the development of ambitious environmental policies at national and European levels. In this perspective, rethinking the governance of the EPR schemes should be considered an urgent matter. It is not because the financial is delegated to tobacco producers, that the organisational and informational responsibilities have to as well. In this specific context, it is important that the EPR schemes are consistent with WHO FCTC in all their aspects. Due diligence and appropriate enforcement by the EPR scheme are also of crucial importance to provide transparent and accurate information and to mitigate non-compliance. We therefore recommend that the EPR scheme should be responsible for carrying out regular audits of the data supplied by producers to ensure it is accurate and verifiable and that particular attention be paid to the illicit trade in tobacco and online sales that also benefit the producers.

# Fees

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## Modulation of the fees

### Provisions of the Directive


Despite calls from NGOs (10) to introduce a modulation of fees in the SUPD, such provisions were not incorporated into the final EU text. But this concept is incorporated into the Waste Framework Directive (WFD) to which the SUPD relates. In the WFD (11), it is foreseen that the level of the financial contributions of the producers will be based on the circularity and environmental performance (such as durability, reparability, reusability, recyclability, and the presence of hazardous substances) of the products they put on the market (referred to as "eco-modulation").

### Implementation at national level

**France** has provided for an eco-modulation of fees in the specifications of the PRO and individual systems to fulfil the extended responsibility obligations in relation to SUP tobacco related products. It is foreseen that the PRO, called ALCOME, can propose bonuses and penalties based on environmental performance criteria relevant to tobacco products and products that are intended for use with tobacco products. The specifications state that at least one criterion should relate to the absence of plastic material in the filters. In this latter case, the producers would benefit from a premium at least equal to 50% of the amount of the financial contribution. It also stipulates that the PRO will carry out, no later than March 31, 2024, a study to assess the relevance of introducing new criteria like this one. In **Portugal**, shockingly, tobacco companies are called in one of the Portuguese transposition laws (12) to promote the use of biodegradable materials in the manufacture of tobacco filters, despite the fact that EU decision makers made clear that the Directive applied to all single-use items listed, including single-use plastic items that are bio-based and/or that are biodegradable or compostable.

### Our recommendations

The aim of extended producer responsibility on tobacco products with plastic filters and filters must be to give manufacturers an incentive to phase out the use of plastic filters altogether. In light of the fact that filters do not reduce the risk of disease but have proven to be used to soften the flavour and make smokers think smoking is less detrimental to their health, we recommend that EPR schemes should not include the modulation of fees for tobacco products with filters and filters. Research has proven that filters are unnecessary products (13), which only respond to marketing purposes and contribute as such to the 700,000 deaths (14) tobacco is responsible for in the European Union. Prevention – i.e. avoiding the use of filters altogether – should, therefore, be the sole priority, in line with the EU waste hierarchy.



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Moreover, the EPR system should exclusively promote filter-free tobacco products and should not incentivise the damaging substitution of single-use plastic filters with other single-use biodegradable, bio-based plastic filters, as recognised by the SUPD. Whatever percentage the final product contains or their ability to degrade, bio-based plastic filters are still single-use plastics. **Contrary to EPR on other products, we do not support the modulation of fees on recyclability given the toxicity plastic filters entail, which makes recycling cigarette butts** nonsensical in terms of the environment and health. This simply exposes nature and people to more pollution. Having said that, the absence of filters in cigarettes is no guarantee at all that the product does not represent a hazard for the environment and our health.

## Amount of the fees

### Implementation at national level

In the **Czech Republic**, the amount to be paid per tonne of products placed on the market was set at 17 780 CZK (15) (around 715 euros) in 2023. The fee amounts to 0,0072 DDK (appr. 0,0009 EUR) for each filter in **Denmark**. This would correspond to a payment of around DKK 32 million (appr. 4,3 million EUR) per year (16) of tobacco companies to the municipalities. Denmark set the fee on a yearly basis and decided it will be revised at least every three years based on waste and costs analyses. This revision process is not foreseen in all Member State legislation. Penalties are also set under Danish law in the case of multiple failures foreseen such as failure to report, to publish information, the provision of misleading information, etc. This is a good practice that can inspire other countries. **Germany**, in a similar fashion, stipulates that in the case of missing or incorrect registration of tobacco products with filters and filters producers, sales will be banned in its territory. In **France**, for the costs corresponding to the clean up of butts in public spaces by public authorities, the amount of the fees to be supported by tobacco companies are established based on two coupled criteria: the number of inhabitants and the type of community concerned. It amounts to 1,08€ per inhabitant per year for municipalities whose population is greater than or equal to 5,000 and less than 50,000 permanent inhabitants ('urban' environment), to 2,08 € per inhabitant per year for municipalities whose population is greater than or equal to 50,000 permanent inhabitants ('dense urban' environment), to 0,50€ per inhabitant per year for municipalities whose population is less to 5,000 permanent inhabitants ('rural' environment), and finally to 1,58 € per inhabitant per year for urban or rural municipalities presenting at least one of the following three criteria – more than 1.5 tourist beds per inhabitant, a rate of second homes greater than 50%, at least 10 businesses for 1,000 inhabitants ('tourist' environment). In **Germany**, the Federal Environment Agency (UBA) has foreseen that producers of cigarette butts will have to pay 8,95 € per kilogram of filters placed on the market (17). In **Sweden**, the annual fee to be paid by those who place tobacco products with filters on the Swedish market amounts to SEK 3,000 (appr. 265€).

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## Calculation of the fees

### Implementation at national level

In some countries, this fee is established based either on the number of filters put on the market such as in **Denmark** or based on their weight, some countries also leave this option open. This latter option is for example the rule in **Finland, France**, and in the **Czech Republic**, even though in the case of the Czech Republic the fee is calculated per tonne of products put on the market. Most often, tobacco companies are required to submit their data filling in a database set by the national authorities such as in **Estonia** which put in place a platform called PROTO (18). This register has three objectives: to collect data on producers and associations of producers of so-called problematic products, on the placing on the market of these products and on their end-of-life management, and to facilitate the submission of information to the European Commission.

On the calculation of the fees, in the absence of guidelines from the European Commission that we hope will be released in the course of 2024, some countries decided to wait for the publication, others took initiatives and already decided how they would calculate the fees. Among them, **Croatia** decided that until its extended producer responsibility system was established, the calculations will be based on surveys, administrative data such as for example data from the Customs Administration on taxable quantities of tobacco products, data on production and commodity exchange as well as on the analysis of waste composition (marine beach, street cleaning waste, etc.) etc. In **Finland**, it was decided that some of the costs will be based on costs reported directly from municipalities as from 2026. For the period 2023-2025, it is specified that municipalities will be reimbursed on the basis of a model that emerged from a survey (19) of municipalities carried out by the Finnish Association of Local and Regional Authorities in 2020. In this transition period, it was decided that municipalities will receive a compensation for the costs of 2023 and 2024 of approximately 1.6 euros per inhabitant and for the costs of 2025 of approximately 2 euros per inhabitant. In addition to this, the municipality can receive compensation for its separate tobacco waste investments and for their awareness raising efforts on tobacco-product related waste. France has differentiated its method of calculating costs depending on the typology of the actions to be implemented under the EPR schemes; Namely for awareness-raising actions carried out by the authorities themselves, it is a percentage of all the funds collected by the organisation whereas for cigarette butt collection actions carried out by local authorities, this is a calculation based on other criteria (see below - crossed criteria of number of inhabitants and typology of the local authority concerned). In **Sweden**, the fees consist of two parts, a variable product fee and a fixed annual fee. Most of the littering fees will be distributed to municipalities as compensation for cleaning up single-use littered products (20).

### Our recommendations

It is important that the fees paid drive real change and incentivise tobacco companies to phase out plastic filters from their tobacco products. The fees should be high enough to create this incentive. The producers could otherwise perceive and experience the EPR as a 'pay to pollute' permit with no intention of changing the nature and reducing the environmental and health impacts of the products they put on the market. It is therefore also crucial that the fee to be paid by producers is set as high as possible as it needs to be weighed against the revenue cigarette sales generate. The reported revenue from cigarette sales in Europe amounted to US\$261.60 billion (more than € 240 billion) in 2022, with a forecast increase of cigarette sales of 1.1% in 2023.



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## Management of the fees

### Implementation at national level

Interestingly, on the management of the fees, in some cases such as in **Croatia** with the so-called Fund for Environmental Protection and Energy Efficiency, **Greece** with its Hellenic Recycling Agency (E.O.AN.) or **Sweden** via the Swedish Environmental Protection Agency, the fees that apply to tobacco products with filter are collected via a governmentally-ruled fund or by a governmental agency. In other countries such as in the **Czech Republic**, the PRO will directly use the collected fees to reimburse local authorities. The frequency of payment of the fees also differs from country to country: in Croatia, the fee is subject to a multi-year fixed payment while in Denmark and the Czech Republic for example, it is a quarterly payment. In **Denmark**, the fees are paid to the Danish Environmental Protection Agency and require the registration to a Danish Producer Responsibility register. In **Germany**, the collected fees feed a disposable plastic fund (21) which is managed by the Federal Environment Agency. Registration is required on a digital platform called DIVID which has experienced problems, in particular as regard data protection and safety requirements. These issues have contributed to delays in the implementation of the SUPD in Germany.

# Awareness-raising

## Provisions of the Directive

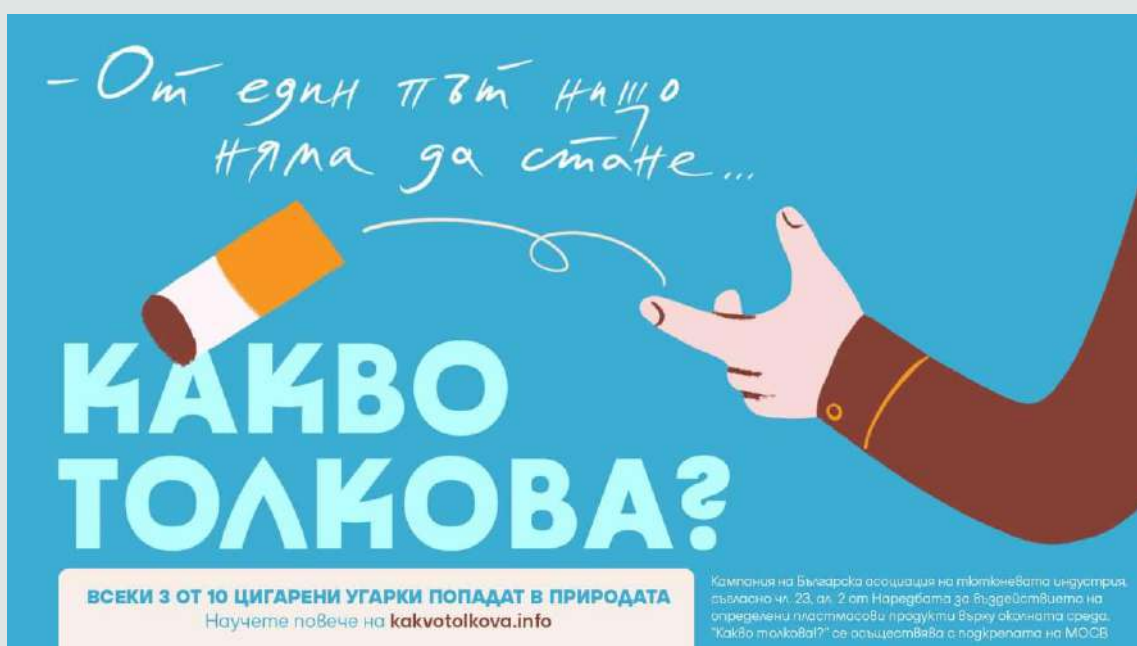
Among the costs to be covered by the EPR schemes (see section above on 'Costs') are the awareness-raising costs. According to Article 10 of the SUPD, citizens should have their awareness raised on the impact of littering and of inappropriate waste disposal. Recital 28 also refers to raising awareness of the plastic content in certain single-use plastic products. It recalls that Member States are the ones responsible for deciding on these awareness-raising measures (depending on the product or its use) and ensuring that the information provided does not contain any promotional content encouraging the use of single-use plastic products.

## Implementation at national level

Many awareness campaigns are in place on cigarette butts across Europe with very different scopes and geographical dimensions (local, regional, or national). In many cases, contrary to what the Directive states, main decisions on the content of the awareness-raising measures have been left to tobacco players with little involvement or supervision from the national authorities.

Examples of the awareness raising campaigns across Europe :

- in **Austria** the "Vienna Tschick Challenge" or SchickOhneTschick campaign launched by the Austrian Health Insurance Fund which wants to help people quit smoking in addition to raising their awareness on cigarette butts
- in Bulgaria, the "Какво толкова!?" (note: in English, "So what?") Campaign launched by the Bulgarian Association of the Tobacco Industry (BATI) with support from the Ministry of Environment and Water (MOEW).



- in **Denmark**, the campaign is called “Et skodfrit Danmark” (in English, “Denmark without cigarette butts”) and is managed by the Danish Ministry of environment.

- in **France**, a campaign was prepared by the PRO ALCOME and launched in September 2023. Its name is “Mon mégot où il faut” (22) (in English, “my butt where it should be”). The main objective of the campaign is to inform the public about the harmful environmental consequences of throwing cigarette butts on the ground and to encourage responsible behaviour. It proposes to do so by encouraging smokers to throw their cigarette butts into bins, street ashtrays or pocket ashtrays.



In France, the scope of the awareness raising obligations of the EPR schemes differs from the obligations set in the SUPD and includes other components that go beyond the impact of cigarette butts in the environment. The PRO will carry out, at least once a year, a national awareness campaign on the risk of fires linked to the abandonment of cigarette butts in the environment. It also specifies the frequency of the awareness raising efforts regarding the environmental impact of cigarette butts, stating that an information and awareness campaign is to be conducted at least once every two years at national level.

- in **Italy**, the campaign is called “Senza filtri” (in English, “Without filters”) (23) . It was prepared by the PRO Erion Care. The involvement and supervision of government bodies is unclear. The campaign is a selection of several posters, each showcasing a different environment - parks, beaches, forests, streets and city squares - . Each poster questions the viewer about the way this environment would look if it was contaminated with cigarette butts. This practice is aligned with the Italian law which states that cigarette manufacturers “shall implement information campaigns in cooperation with the Ministry for the Environment and the Protection of Land and Sea”. Again here, this provision is in breach of the World Health Organization Framework Convention on Tobacco Control.



- in **Slovakia**, the campaign launched by the PRO SPAK-EKO was called Cigaretovník with the slogan “\$”Z ohorku ti žiadny cigaretovník nevyrastie. Nehádz ho na zem!” (in English, “No cigarette butt will grow. Don't throw it on the ground!”). The campaign consisted in a series of posters and a video (24) disseminated in the streets at bus stops, in media and in social media. The campaign was disseminated notably on Instagram with the support of an influencer. Since the deadline for the EPR schemes in Slovakia was delayed to the end of 2024, these awareness-raising efforts were presented as coming from a voluntary initiative (25).



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## **Our recommendations**

It is of uttermost importance that the awareness-raising costs to be covered include messages on the toxicity of cigarettes and not be limited to the message ‘do not litter’, placing the burden solely on consumers’ shoulders. On top of that, it is important that more efforts on awareness raising are deployed. In several countries, awareness raising campaigns were ongoing before the SUPD was adopted and national authorities limited their awareness raising action to supporting existing campaigns instead of rethinking their whole awareness raising efforts, coordinating further and more importantly scaling up successful campaigns. In addition, the involvement – be it direct or indirect – of the tobacco industry in the design and/or promotion of these awareness raising campaigns pose major issues and constitute an important breach of the World Health Organization Framework Convention on Tobacco Control (WHO FCTC), despite attempts from some Member States (26) to introduce safeguards. Yet, these safeguards appear weak in the face of the significant risk and opportunity for the tobacco industry to portray itself as a corporate socially responsible actor, thus contributing to legitimising their activities despite their responsibilities in the major environmental crisis we experience today.

# Going beyond the SUPD

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## Reduction targets

The European Parliament, when examining the proposal for a Directive on Single-Use plastics, following the proposal tabled by the European Commission, had foreseen the inclusion of mandatory reduction measures (27) for the waste resulting from cigarette filters containing plastic introducing a 50% reduction target by 2025 and a 80% reduction target by 2030. But these measures were finally removed during the negotiations with the Council. In some countries such as **Luxembourg, Sweden, Cyprus and the Netherlands**, discussions have taken place on setting a reduction target to complement the EPR schemes or to operationalize them further. In Luxembourg, there were discussions about setting an obligation to reduce the quantity of filter discharges from 2024 by at least 10% over the previous year. However, this obligation was removed from the final text. Similar discussions took place in the Netherlands. In **Cyprus**, the targets that are being debated are a 15% reduction target in three years and 30% in 6 years, compared to 2023. In **France**, these targets were set at 20% in 2023, 35% in 2025 and 40 % in 2026, compared to 2022. In **Sweden**, the objective introduced under the EPR scheme is a 50% reduction of butts littered in 2030 compared to 2023. In parallel, interestingly, **Portugal** had stipulated (28) that it is legally forbidden to dispose of cigarette butts, cigars or other cigarettes containing tobacco products in public spaces.

## Banning cigarette filters

**Research shows that cigarette filters do not reduce the harmful effects of tobacco on health.** From a public health point of view, therefore, they offer no benefit in addition to being an environmental pollutant. On the contrary, studies have shown that they create instead a false sense of security. Filters avoid harsh flavours and make it easier to inhale. As a matter of fact, they are described as a marketing tool by researchers who call them frauds. Their main purpose would be to sell more cigarettes, in addition to lowering the cost of manufacturing, to keeping tobacco bits from entering the mouths of smokers. With filters, comes the idea of safer smoking. Smokers are wrongly led to believe that the filter reduces the harmful effects of smoking making them less prone to quit smoking. Plus, although the filter blocks some of the soot and nicotine particles, the change in combustion method increases the formation of carcinogenic substances. Smokers would also inhale more frequently and/or more deeply to compensate for the reduced nicotine intake due to the presence of the filter. Worse, instead of protecting against lung cancer, filters would have, over the years, encouraged a change in the type of lung cancer. Many voices (29), including national authorities, have raised asking for a general ban on cigarette filters, at national, European and international level. These calls are being made in particular in **Belgium (30), the Netherlands (31) and Sweden (32)**. Interestingly, this call is coming in Belgium from the Belgian Superior Health Council. This question was also in the media in several countries such as **Denmark (33)**. In addition to banning cigarette filters, some countries have made progress and introduced other measures to reduce the health impacts of smoking and the impacts of cigarette butts on the environment. This is for example what **Finland** did by introducing in 2022 a ban on smoking on playgrounds and public beaches in its Tobacco Act. Similar measures are also in place in other countries. At EU level, the European Commission announced in 2021 in its Europe's Beating Cancer Plan, that it would propose to update the EU Recommendation on smoke-free environments to extend its coverage to emerging products, such as e-cigarettes and heated tobacco products, and to explicitly include certain outdoor spaces. Work is ongoing and a proposal for a revised Council Recommendation on Smoke-Free Environments should be tabled in the first quarter of 2024.

## What about single use e-cigarettes?

The SUPD says nothing about disposable e-cigarettes despite their single use plastic product nature. Nevertheless, several countries across Europe have raised their voices to ask for an EU ban on disposable e-cigarettes. In **Germany**, the Federal Council spoke out in favour of a ban on disposable e-cigarettes at EU level in March 2023 (34). Prior to this, in a response to a parliamentary question, the German government had also raised the possibility of a strict ban (35) on disposable electronic cigarettes, on the basis of legislation relating to the eco-design of products. Still in Germany, the Bavarian executive cabinet asked the German federal government to ban their sales in Germany and the European Union (36). **Disposable e-cigarettes are made of plastic, aluminium and lithium (37). Their batteries are not rechargeable, would be responsible for fires in waste disposal and sorting plants and the liquids cannot be refilled. At the end of their life, their components and reservoir are hazardous waste.** Most of the time, they bear no instructions on their package on what to do with them and end up in residual waste when not littered. When littered, the reservoir constitutes a source of nicotine and other toxic chemical contamination. The electronic components may also leach metals into the environment. Worryingly, their sales have increased significantly in recent years. In **Ireland**, the government has expressed interest in banning disposable electronic cigarettes. In **France**, the process is well advanced to ban them. In December 2023, the French National Assembly unanimously passed the first reading of a bill to ban them (38). In parallel, several Member states have already legislated indirectly to limit access to these products by introducing bans on flavourings for electronic cigarettes on their territory, given their high appeal among young people. This is the case of **Finland, Estonia, Hungary**, and discussions were on-going in **Denmark, the Netherlands and Lithuania (39).**

### Our recommendations

The EPR schemes should incorporate a national target for reducing plastic filters in the environment. They should aim to achieve zero cigarette butts in the environment by 2030, in particular the aquatic environment, with intermediary waste reduction targets for plastic tobacco product filters and filters of at least 50% by 2025 and 80% by 2027. In view of their toxic content and hazardous nature, they should include a toxicity reduction target of at least 50% by 2025, and 100% by 2030. Finally, all EU Member States should join the calls made from several corners of the European Union on an EU ban on cigarette filters and single-use e-cigarettes, given the extent and magnitude of the environmental harms they are responsible for in addition to the rest.

# GENERAL CONCLUSION

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The extended producer responsibility obligations introduced by the SUP Directive are extremely positive provisions. For the first time across almost a continent, the tobacco industry will have to pay for (some of) the pollution costs it generates as a consequence of putting polluting single-use plastic items on the market at the expense of the environment. The adoption of these provisions also made more concrete the application of the polluter-pay principle, that despite being a cornerstone of the EU environmental policy, continues to be very poorly applied at EU level.

However, many Member States are late in implementing the EPR provisions laid down in the SUP Directive. In addition, tobacco products and tobacco players are not like any other products and any other producers. Extra attention is needed from decision-makers to adapt the 'usual' EPR obligations to this specific sector and make sure the schemes set at national level comply with international rules such as the WHO FCTC.

On top of that, plastic filters are only one source of plastic pollution tobacco causes – let's not forget the plastic pollution also coming from packages, lighters, and other tobacco products –, even if a significant one. Tobacco has also many other environmental impacts across its whole chain that remain to be addressed at EU level. The review of the SUPD (40) prior to mid 2027 provides an opportunity to tackle the plastic pollution that tobacco products generate, with more ambition and impacts.

Meanwhile, it is of uttermost importance that Member States make the most of what the current SUPD offers so that the tobacco industry pays and is finally held accountable for the products they put on the market and for the harms they cause to the planet and Humans alike.

The ongoing negotiations on an international plastic treaty also offer an additional opportunity to take complementary and even, in some aspects, more and integrated measures at the global level. On the negotiations table is notably the possibility to include tobacco product waste (41) (cigarette butts and disposable electronic cigarettes) in the list of problematic and avoidable plastic products in an annex to the draft Treaty, with the ultimate goal of phasing them out and eventually banning them.



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The NGO Surfrider Foundation Europe is a group of positive activists who take concrete action on the ground every day to pass on a preserved ocean to future generations. Our mission: to make the voice of the ocean heard loud and clear! Our weapons? Raising awareness and mobilizing citizens, children and adults alike (thanks to 48 volunteer branches throughout Europe), using our scientific expertise to lobby and transform companies. Find out more about the association at <https://surfrider.eu/en> or via [this video](#).

RETH!NK PLASTiC

Rethink Plastic is an alliance of leading European NGOs, with thousands of active groups, supporters and citizens in every EU Member State. We bring together policy and technical expertise from a variety of relevant fields, and work with European policy-makers to design and deliver policy solutions for a future that is free from plastic pollution. We are part of the global Break Free From Plastic movement, made up of 11,000 organizations and individual supporters from across the world who are demanding massive reductions in single-use plastics and to push for lasting solutions to the plastic pollution crisis.

#BreakFreeFromPlastic

#BreakFreeFromPlastic is the global movement working to achieve a future free from plastic pollution. More than 12,000 organizations and individuals around the world have come together to demand reductions in single-use plastics and to advocate for lasting solutions to the plastic pollution crisis. BFFP members work together to bring about systemic change by tackling plastic pollution across the whole value chain - from extraction to disposal - focusing on prevention rather than cure. Find out more on <https://www.breakfreefromplastic.org/>