

**October 4, 2018**

**Finnish Association for Substance Abuse Prevention EHYT**

## Statement to the European Commission on the bill proposed by the Finnish government to amend the Alcohol Act (2018/0324/FIN)

The Government of Finland has notified the European Commission on the proposed amendment to the Finnish alcohol law. The purpose of the notification procedure is to ensure that the notified acts are in compliance with EU law and the principles of the internal market.

### **Background**

Alcohol is not an ordinary commodity. Alcohol use is one of the leading causes of preventable premature death and constitutes a considerable burden of disease globally as it is associated with approximately 3 million deaths each year.<sup>1 2</sup> It is imperative to examine the effects of the alcohol law in the context of public health, i.e. not only from the principle of the free movement of goods.

According to the Finnish Alcohol Act, both national and cross-border internet sales and home delivery of alcoholic beverages containing more than 2.8 vol-% ethyl alcohol is currently punishable by imprisonment. However, as there have been misunderstandings about the present interpretation, the Finnish government seeks to clarify these provisions. Finland has an alcohol retail monopoly, Alko, which in Finland holds the exclusive right to sell alcoholic beverages containing more than 5.5% alcohol by volume. The proposed amendments clarify the role of this retail monopoly in cross-border distance sales, as well as the role of the licensing regulations. In other words, new bans have not been notified.

### **Notification to amend the Alcohol Act (2018/0324/FIN)**

As no new bans are proposed in the notification, the notification procedure should be based on an examination of whether the existing alcohol act is consistent with European Union law. This has already been reviewed by the Supreme Court of Finland in the ruling KKO 2018: 49, in which the Supreme Court has applied the preliminary ruling of the Court of Justice of the European Union in Case C-198/14 Visnapuu.

The Commission should be aware that during the case the defendant argued that the Finnish Alcohol Act was in this respect in breach of European Union law (on the grounds that the Commission had set out in its detailed opinion concerning the previous notification No. 2016/653/FIN).

This was examined in detail in a thorough process that lasted, in the national courts and in the Court of Justice of the European Union, for a period of nine years. In its conclusions, the Finnish Supreme Court ruled that the retail monopoly and licensing system did not conflict with EU law. In particular, the Supreme Court referred to the fact that the national regulations concerning the alcohol retail monopoly's e-commerce and delivery points must be assessed in light of Article 37 TFEU and not in light of articles 34 and 36. As this final judgment by a national court applied the preliminary ruling of the Court of Justice of the European Union, it should be considered definitive.

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<sup>1</sup> WHO, 2018: Global status report on alcohol and health 2018 ([http://www.who.int/substance\\_abuse/publications/global\\_alcohol\\_report/en/](http://www.who.int/substance_abuse/publications/global_alcohol_report/en/)).

<sup>2</sup> GBD Alcohol Collaborators, 2018: Alcohol use and burden for 195 countries and territories, 1990–2016: a systematic analysis for the Global Burden of Disease Study 2016. The Lancet, Volume 392, Issue 10152, 1015-1035 ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31310-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31310-2/fulltext)).

## Effective policies are urgently needed to tackle alcohol-related harm

Europe remains globally the region with highest alcohol consumption. The costs related to the years of potential productive life lost and to the treatment of diseases and injuries attributable to alcohol are paramount also from the standpoint of protecting healthy national economies. Furthermore, harmful use of alcohol has considerable unwanted social and psychological consequences on the drinker, on bystanders and to the society at large.

Alcohol impacts disproportionately socioeconomically disadvantaged populations, especially males. Secondary alcohol harm afflicts children and families in particular. Weakening the health protection measures in the national alcohol policies would thus mean risking an accelerated widening of the inequality gap in health and welfare in Europe.

The negative social and health consequences of alcohol use can be prevented. Controlling the availability of alcoholic beverages is one of the key measures for curbing and reducing alcohol-related harm and related costs, also acknowledged by WHO<sup>3</sup>, UNODC<sup>4</sup>, OECD<sup>5</sup>, and the World Economic Forum<sup>6</sup>. Reducing alcohol-related harm and costs is a public health goal that the UN Member States, including the European states, have unanimously committed to<sup>7</sup>, also in the context of the UN Sustainable Development Goals (SDGs).<sup>8</sup>

A recent Lancet article by well-regarded international researchers suggested revising alcohol control policies to focus on efforts to lower overall population-level consumption worldwide.<sup>9</sup> Based on the research literature, three “best buys” to reduce alcohol-related harm are: “(1) Increasing excise taxes on alcoholic beverages; (2) regulating availability of alcoholic beverages, including minimum legal purchase age, restrictions on outlet density and on time of sale, and, where appropriate, governmental monopoly of retail sales; (3) restricting exposure to marketing of alcoholic beverages through effective marketing regulations or comprehensive advertising bans.”<sup>10</sup>

From the standpoint of the Finnish Association for Substance Abuse Prevention EHYT, the current Finnish alcohol retail monopoly is effectively alleviating the public health impact of alcohol use in Finland by regulating the availability of alcoholic beverages. In other words, preventing and reducing the negative consequences of alcohol use to individuals and to the society is the main goal of the Finnish alcohol retail monopoly. This specific goal justifies the existence of the alcohol retail monopoly in the first place and it is aligned with the goals and values of actors focused on prevention of alcohol-related harm.

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<sup>3</sup> WHO, 2010: Global strategy to reduce harmful use of alcohol ([http://www.who.int/substance\\_abuse/activities/gsrhua/en/](http://www.who.int/substance_abuse/activities/gsrhua/en/)).

<sup>4</sup> UNODC, 2015: International Standards on Drug Use Prevention ([www.unodc.org/unodc/en/prevention/prevention-standards.html](http://www.unodc.org/unodc/en/prevention/prevention-standards.html)).

<sup>5</sup> OECD, 2015: Tackling harmful alcohol use. Economics and public health policy (<http://www.oecd.org/health/tackling-harmful-alcohol-use-9789264181069-en.htm>).

<sup>6</sup> WHO and World Economic Forum, 2011: From burden to “best buys”: Reducing the economic impact of NCDs in low- and middle-income countries ([http://www.who.int/nmh/publications/best\\_buys\\_summary.pdf](http://www.who.int/nmh/publications/best_buys_summary.pdf)).

<sup>7</sup> Resolution WHA63.13 adopted by the World Health Assembly in 2010; Outcome Document of UNGASS 2016 on the World Drug Problem (paragraph 1.) (<https://undocs.org/A/RES/S-30/1>).

<sup>8</sup> United Nations, 2015: Transforming our world: the 2030 Agenda for Sustainable Development (<https://sustainabledevelopment.un.org/post2015/transformingourworld>). See specifically the SDG target 3.5: “Strengthen the prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol.”

<sup>9</sup> GBD Alcohol Collaborators, 2018: Alcohol use and burden for 195 countries and territories, 1990–2016: a systematic analysis for the Global Burden of Disease Study 2016. The Lancet, Volume 392, Issue 10152, 1015-1035. ([https://www.thelancet.com/journals/lancet/article/PIIS0140-6736\(18\)31310-2/fulltext](https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(18)31310-2/fulltext))

<sup>10</sup> IOGT International, Alcohol Policy Best Buys: 3 most cost-effective, high-impact public policy interventions to prevent and reduce alcohol harm (<http://iogt.org/the-issues/advocacy/aiap/alcohol-policy-best-buys/>).

## Conclusions

Finland has a well-functioning alcohol policy grounded in public health, of which the national alcohol retail monopoly is a key element. Opening cross-border sales to delivery beyond the alcohol monopoly retail system would in practice lead to dismantling the alcohol retail monopoly. The current alcohol sale structure is working well, has wide public support, and is in line with the European Union law. The proposed amendments to the Alcohol Act would clarify and unify the interpretation of the Act and support the existing retail structure.

In conclusion, with high respect to the European Court of Justice, we ask the Commission to ensure that any observations on the Finnish Alcohol Act and the Finnish alcohol monopoly, and on their compliance with the European Union law, will be based on accurate knowledge and understanding of the significance of the judgments of the Court of Justice of the European Union (C-198/14 Visnapuu) and of the Finnish Supreme Court (KKO 2018: 49).

Sincerely,

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