

PARLIAMENT OF ROMANIA - CHAMBER OF DEPUTIES
EUROPEAN AFFAIRS COMMITTEE

REASONED OPINION concerning the *Proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products*

Being aware of the significance of and need for a more precise regulatory framework of the tobacco industry, the European Affairs Committee issued a reasoned opinion, stating serious concerns regarding the empowerment of the European Commission to adopt delegated acts for a number of 16 situations, thus creating the opportunity to regulate far beyond the directive's objectives and limiting the right of the Member States to take action, as close as possible to citizens.

Moreover, the European Commission's arguments against tobacco products with characterizing flavors or slim cigarettes are not founded well enough on scientific researches, the consumers being tempted rather to orient towards other tobacco products, possibly more harmful. Nevertheless, Member States might prevent the registration of any deceiving trademark, which should be considered an adequate guarantee.

Thirdly, the *cube*-shape for cigarette packages is not an indisputable measure for the prevention of misleading advertising; therefore, it should be left up to the producers.

Then, the obligation of the retailers intending to engage in cross-border distance sales to register in the Member State where the retail outlet is established and in the Member State where the actual or potential consumer is located is excessive and might distort the fair competition.

A tobacco product containing up to 40 additives renders the impact on human health rather impossible to establish; Member States alone are completely capable of prioritizing studies/researches in this area, according to the consumption structure at this level, although future studies at EU level are not excluded.

Furthermore, the notification of novel tobacco products is of administrative nature, so that the directive should limit itself only to the objective to be achieved, leaving the methods to the national level.

Finally, the Romanian legislation concerning trademarks awards the owner an exclusive right for the use of the protected mark. The *Paris Convention for the Protection of Industrial*

Property establishes the same right and the *Agreement on Trade-Related Aspects of Intellectual Property Rights, Annex 1C of the Marrakesh Agreement Establishing the WTO* ascertains the same principle. Therefore, Romania and perhaps other Member States might be called to explain the restriction of such right.

For the abovementioned arguments, the European Affairs Committee within the Chamber of Deputies found the Proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products in breach with the subsidiarity principle. The decision has been taken on February 20, 2013.

[Unofficial English translation of the Reasoned Opinion issued by the European affairs Committee on the Proposal for a Directive on the approximation of the laws, regulations and administrative provisions of the Member States concerning the manufacture, presentation and sale of tobacco and related products COM(2012)788]