



The Parliament of Romania  
Senate

Bucharest, 5<sup>th</sup> July 2018

Courtesy translation

**OPINION of the ROMANIAN SENATE**  
**on the Proposal for a COUNCIL DIRECTIVE amending Council Directive 92/83/EEC on**  
**the harmonisation of the structures of excise duties on alcohol and alcoholic beverages -**  
**COM (2018) 334 final**

The Romanian Senate, pursuant to art. 67, art. 148 (2) and (3) of the Romanian Constitution and the Protocol no. 2 annexed to the Treaty of Lisbon amending the Treaty on European Union and the Treaty on the Functioning of the European Union, signed in Lisbon in 13<sup>rd</sup> December 2007, has examined the **Proposal for a COUNCIL DIRECTIVE amending Council Directive 92/83/EEC on the harmonisation of the structures of excise duties on alcohol and alcoholic beverages - COM (2018) 334 final**.

Having in view the report of the Committee for European Affairs from 21<sup>st</sup> of June 2018, **the Romanian Senate**, issued on 5<sup>th</sup> of June 2018 an OPINION, as follows:

This proposal for a directive respects the principles of subsidiarity and proportionality, as its objectives can not be achieved at national level, and the proposed measures and the form of the directive are appropriate.

1. The legal basis

The legal basis is Article 113 TFEU.

Pursuant to this provision, the Council, acting unanimously in accordance with a special legislative procedure and after consulting the European Parliament and the Economic and Social Committee, adopts provisions for the approximation of the laws of the member states in the field of indirect taxation.

2. Subsidiarity (in the case of non-exclusive competencies)

In accordance with the principles of subsidiarity and proportionality, as set out in article 5 of the Treaty on European Union<sup>2</sup>, the objectives of the proposal can not be sufficiently achieved by the member states and can therefore be better achieved at Union level. This proposal does not go beyond what is necessary to achieve these objectives.

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<sup>2</sup> Consolidated version of the Treaty on European Union (OJ C 326, 26.10.2012, p. 13)

The source of the current complications regarding excise duty exemptions for denatured alcohol, the classification of certain alcoholic beverages, the status of small breweries and the measurement of Plato degree is precisely the absence of clear rules at EU level.

Decisions taken unilaterally by member states create additional complications and legal uncertainty.

The extension of the reduced rates of excise duty for small independent cider producers is not possible because the directive, in fact, prevents member states from correcting this imbalance, since they may apply reduced rates of excise duty for small independent producers of beer and ethyl alcohol, but this is not the case for small independent cider producers.

This also applies to the threshold of the alcohol with low alcohol strength.

Most member states administrations have highlighted the need to improve common definitions and common rules for alcohol and alcoholic beverages, for the purpose of applying excise duties at EU level.

This fact is also reflected in the Council Conclusions adopted on 6<sup>th</sup> December 2016, where the Council asked the Commission to carry out the necessary studies to prepare a possible legislative proposal for the revision of Directive 92/83/EEC.

### 3. Proportionality

This proposal respects the principles of proportionality, as set out in article 5, paragraph (4) of the Treaty on European Union.

The proposed changes do not go beyond what is necessary to address the issues in question, and thus, to achieve the objectives of the Treaty to ensure the smooth and efficient functioning of the internal market.

In particular, the proposed extension of the reduced rates for small independent cider producers would stimulate competition among these producers, with few negative effects on revenue losses and administrative burdens, and would place them on an equal footing with small producers of brewers and ethyl alcohol.

### 4. Considers that:

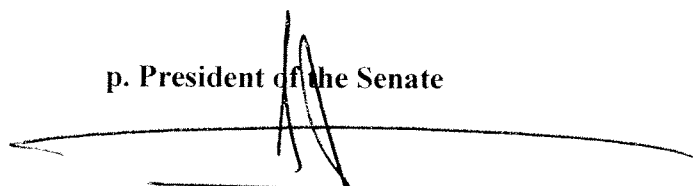
Definitions should take into account the distinction between:

- *completely denatured alcohol* (CDA), for which there is a system of mutual recognition of national distortion formulas, which ensures that it is freely marketed throughout the EU

and

- *denatured alcohol*, the so-called „partially denatured” alcohol (PDA), for which the exemption is conditioned on its use in the manufacture of any product not intended for human consumption, leaving member states free to define at national level their own distortion formulas.

p. President of the Senate



Adrian ȚUȚUIANU