

Comments to Act amending the Alcohol Act.

Notification Number: 2018/324/FIN (Finland)



October 2018



The European Alcohol Policy Alliance (EUROCARE)

The European Alcohol Policy Alliance (EUROCARE) is an alliance of non-governmental and public health organisations with around 55 member organisations across 23 European countries advocating the prevention and reduction of alcohol related harm in Europe. Member organisations are involved in advocacy and research, as well as in the provision of information and training on alcohol issues and the service for people whose lives are affected by alcohol problems.

The mission of Eurocare is to promote policies to prevent and reduce alcohol related harm. The message, in regard to alcohol consumption is “less is better”.

Eurocare’s contribution to TRIS system on: Act amending the Alcohol Act.

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Eurocare welcomes the Finnish Governments proposed amendment to the alcohol law.

As a general comment Eurocare would like to highlight that measures in the Act amending the Alcohol Act are in line with the latest evidence base in the field of alcohol policy. World Health Organization *Global strategy to reduce harmful use of alcohol* as well as the World Health Organization *European action plan to reduce the harmful use of alcohol 2012–2020* encompass measures proposed by Finland. Moreover; the Sustainable Development Goal 3, target 3.5, with which the European Union has an obligation to comply, calls for strengthening of the prevention efforts in the area of alcohol related harm. The Finish provisions also closely follow the 2006 *European Union strategy to support Member States in reducing alcohol related harm*.

Alcohol Related Harm

More than 3 million people died as a result of harmful use of alcohol in 2016, according to the World Health Organization (WHO)¹. This represents 1 in 20 deaths. More than three quarters of these deaths were among men. Overall, the harmful use of alcohol causes more than 5% of the global disease burden.

Europe continues to have the highest per capita consumption in the world, with a total alcohol per capita consumption over 15 years of age of 9,8 litres of pure alcohol. In addition, Europe has the highest rates of current drinking among 15–19-year-olds (43,8%), followed by the Americas (38%) and the Western Pacific (38%). School surveys indicate that, in many countries, alcohol use starts before the age of 15 with very small differences between boys and girls.

Eurocare would like to remind the European Institutions of the Council Conclusions on Cross-border aspects in alcohol policy – tackling harmful use of alcohol during the Estonian Presidency in December 2017. Member States have clearly shown that there is a will to increase actions to tackle alcohol related harm. The Conclusions highlighted several areas of action and call on the European Commission to:

- Produce and adopt a new EU Alcohol Strategy
- Monitor and evaluate the adequacy of the current measures in the online advertising of alcoholic beverages
- Support Member States in the framework of a new Joint Action - RARHA
- Support research and studies in areas such as for instance cross-border purchases
- Propose better provisions for alcohol labelling by the end of 2019

The European Institutions should support Member States in their actions to prevent and reduce alcohol related harm.

¹ Global status report on alcohol and health 2018, WHO
http://www.who.int/substance_abuse/publications/global_alcohol_report/en/

Alcohol and Availability

WHO² has over the years called on governments to implement policies regarding the availability of alcoholic beverages as one of the key measures for curbing and reducing alcohol-related harm and related costs, also acknowledged UNODC³, OECD⁴ and the World Economic Forum⁵.

Physical availability of alcohol refers to the ease and convenience with which alcohol can be obtained. In many European countries, the access to alcohol has increased over the last decades. Regulating the physical availability of alcohol by placing restrictions on the eligibility to sell and purchase alcoholic beverages is one mechanism for preventing and reducing alcohol-related harm.

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 first stores were opened in 1932 and fully owned by the Government. Today Alko Inc is an independent limited company wholly-owned by the Finnish Government and administered and supervised by the Ministry of Social Affairs and Health.

Alcohol and Cross Border Sales

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, this is a clarification of existing regulations. This notification procedure should therefore be based on an examination of whether the proposed amendment 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.

Eurocare supports the standpoint of the Finnish Association for Substance Abuse Prevention EHYT, that 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.

² WHO, 2010: Global strategy to reduce harmful use of alcohol (http://www.who.int/substance_abuse/activities/gsrhua/en/)

³ UNODC, 2015: International Standards on Drug Use Prevention (www.unodc.org/unodc/en/prevention/prevention-standards.html)

⁴ OECD, 2015: Tackling harmful alcohol use. Economics and public health policy (<http://www.oecd.org/health/tackling-harmful-alcohol-use-9789264181069-en.htm>).

⁵ 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).

Final remarks

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.

To conclude, one of the objectives of public bodies should be to effectively protect people from risks and threats that they cannot tackle as individuals. The Finnish authorities have taken appropriate steps to update their current alcohol act.

Health is a public interest worthy of consideration in development and implementation of all policies. Right to health should be considered alongside the right of the commercial operators to trade, to property and to expression. It is our hope that the European Union institutions and its Member States will allow Finland to put the health of their citizens ahead of profits of the alcohol industry.

Contact details

For more information please contact:

Mariann Skar
Secretary General
Eurocare

Rue Archimede 17
1000 Brussels, Belgium
Tel [+32 \(0\)2 732 67 82](tel:+3227326782)
GSM +32 (0)47 4830041
E-mail: Mariann.Skar@eurocare.org