



UAB „ECODUMAS“

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European Commission - TRIS/(2021) 02580

Directive (EU) 2015/1535

Notification: 2021/0434/LT

11/10/2021, Vilnius

Re: Draft Law No XIIIIP-3849(3) amending Article 9(2) of Law No I-1143 on the control of tobacco, tobacco products and related products of the Republic of Lithuania

UAB Ecodumas is one of the leading e-cigarettes retail and wholesale companies in Lithuania. The company has more than 38 shops and 1500 sales points in the largest Lithuanian cities, 113 employees.

The company asks European Commission to evaluate critically Draft Law No XIIIIP-3849 (3) amending Article 9 (2) of Law No I-1143 on the control of tobacco, tobacco products and related products of the Republic of Lithuania (hereinafter “**Draft law**”), notification (No 2021/434 / LT), whereas:

First, the objectives of the adoption of the regulation set out in the Draft law are fundamentally different from those set out in the notification notice. **According to the explanatory memorandum to the Draft law, the Draft law aims to reduce (combat) the usage of e-cigarettes among minors (Annex No. 1). However, this objective has nothing to do with the adoption of the proposed Draft law, as the sale of tobacco and related products (including e-cigarettes) to minors is currently prohibited (Annex No. 2).**¹

Secondly, the adoption of the Draft law will significantly increase the e-cigarettes black market. It shall be noted that today black market share of e-cigarettes market is higher than 65 %.

¹ Article 16 (1) of the Law on the Control of Tobacco, Tobacco Products and Related Products: “1. In the Republic of Lithuania it shall be prohibited to sell electronic cigarettes and refill containers of electronic cigarettes to persons under 18 years of age. Whenever doubts arise that a person is under 18 years of age, Article 14(5)(3) of this Law shall apply. 2. In the Republic of Lithuania person under 18 years of age shall be prohibited to smoke (use) electronic cigarettes and to possess electronic cigarettes or refill containers of electronic cigarettes. 3. It shall be prohibited to purchase or otherwise transfer electronic cigarettes and refill containers of electronic cigarettes to persons under 18 years of age.” Online access: [I-1143 Republic of Lithuania Law on the Control of Tobacco, Tobacco Products and Related Products \(lrs.lt\)](#)

Assumptions used	Amount / amount	Source
Excise taxes paid in Lithuania during 2020	EUR 1 242 000 (10 350 000 ml of liquid)	Data from the State Tax Inspectorate https://www.vmi.lt/evmi/documents/20142/753727/NB_apzvalga_2020_internetas.pdf/3409daeb-8091-9feb-8d56-a7acfb53596?t=1612170625126 (page 10)
Population (Lithuania)	2795680	Statistics department Database of Indicators - data and statistics Official Statistics Portal
Number of smokers in Lithuania	28 % (Tobacco and e-cigarettes) (784000 persons)	Eurobarometer Attitudes of Europeans towards tobacco and electronic cigarettes - February 2021 - - Eurobarometer survey (europa.eu) (page 14)
E-cigarettes users (vapers)	3 % among smokers (app. 23520)	Eurobarometer Attitudes of Europeans towards tobacco and electronic cigarettes - February 2021 - - Eurobarometer survey (europa.eu) (page 63)
Daily consumption of e-cigarette liquid	App. 3.5 ml per day	Targeted survey conducted by the company
<p>Final calculations:</p> <p>$23520 * 3.5 \text{ ml} * 365 \text{ d.} = 30046800 \text{ ml}$ (total annual consumption).</p> <p>Excise duty paid per 10 350 000 ml = 34.45% from total consumption (30046800/10350 000). Unpaid part of excise duty (illegal trade) - 65.55 %.</p>		

It should be emphasized that at present the Lithuanian authorities are generally not fighting against the black market of the e-cigarettes. The fact that the illegal trade in electronic cigarettes is not combated is confirmed by the official position of the control authorities (Department of Drugs, Tobacco and Alcohol

Control) (attached as Annex No. 3 letter No. S-1552 of 17 June 2021), which states that the Department of Drugs, Tobacco and Alcohol Control is not authorized to conduct investigations into the possible e-cigarettes illegal trade conducted by natural persons.

Third, with the adoption of the Draft law, heated tobacco products will gain an inevitable competitive advantage, as heated tobacco products (such as Iqos) can be sold in Lithuania not only in tobacco but also in mint flavor, which would be banned in the case of adoption of the Draft law.

Fourth, the objectives of the legal regulation provided for in the Draft law are analogous to the objectives set out in the Law on Licensing of Trade of e-cigarettes, which has already entered into force from 1st of May 2021.

Thus, Company recognizes Draft law as disproportionate measure restricting the free movement of goods, because:

- **The real objectives of the draft law (non-availability of products to minors) do not correspond to the objectives of the Draft law set out in the notification notice.**
- **E-cigarette's sale licensing requirements came into force in Lithuania on 1st May 2021.**
- **The adoption of the Draft law will encourage the illegal trade in e-cigarettes, which currently accounts for more than 65 percent of all market.**

Attached: annexes no. 1 - 3.

UAB Ecodumas

Director Edvinas Izokaitis