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**Warsaw, December 19, 2023**

POSITION OF THE POLISH SPIRITS INDUSTRY IN THE TRIS PROCEDURE ON THE SALE OF ALCOHOLIC BEVERAGES IN FINLAND

The Employers' Association of the Polish Spirits Industry (Związek Pracodawców Polski Przemysł Spirytusowy) is a voluntary, self-governing and self-financing industry organization, which is the largest representative of the spirits industry in Poland. We associate over 90% of the spirits market. Our mission is to develop the industry, strengthen the centuries-old tradition of spirits products, represent the interests of our members and implement corporate social responsibility activities of the spirits industry.

On 18 September 2023, the Finnish TRIS gave notice of its intention to amend Section 17 of the Finnish Alcohol Act regarding retail liquor licenses and requirements for license’ application.

The amendment provides the possibility for grocery shops that obtain a license to sell the following alcoholic beverages: distilled beverages (spirits) with an alcohol content of up to 5.5% and fermented beverages (beer, cider, wine) with an alcohol content of up to 8%. Such discrimination is explained by public health concerns. Beverages with higher alcohol content would still be sold by shops owned by the Finnish monopoly.

Fermented drinks such as wine, cider or beer and distilled spirits contain the same substance - alcohol - and should be treated the same way by the legislator**. There is no scientific evidence** to suggest different effects on human health from the consumption of fermented or distilled alcoholic beverages. In view of the above, a sales restriction based solely on the method of production of alcoholic beverages unfairly discriminates against products made from distilled spirits in favor of their fermented substitutes.

In addition, the Finnish monopoly distribution system is limited to 372 shops, while there are more than 4,000 supermarkets on the Finnish market. As there is no health justification for the different distribution of products produced by fermentation or distillation, but with the same strength, i.e. alcohol content, this constitutes a barrier to competition.

The Court of Justice of the EU has ruled in the past that the Finnish monopoly system must be analyzed in light of Article 37 of the Treaty on the Functioning of the European Union (TFEU) and the retail licensing system in light of Article 34 TFEU. Furthermore, the Court of Justice has held that the Finnish retail licensing system constitutes a restriction within the meaning of Article 34 TFEU.

An obstacle to the free movement of goods may be justified on one of the grounds of public interest set out in Article 36 TFEU or in order to satisfy overriding requirements. In both cases, the national rule must ensure the attainment of the objective pursued and must not go beyond what is necessary to attain it. According to the settled case law of the Court of Justice, national rules are appropriate to ensure the attainment of the objective invoked only if they genuinely reflect a concern to achieve that objective in a consistent and systematic manner. In any case, the restrictions must be applied without discrimination. The proposed amendment to the Alcohol Act does not meet the above requirement that national legislation should achieve the objective in a consistent and systematic manner.

There is no scientific evidence that beverages produced from distilled alcohol have a different effect on the human body than beverages produced from fermented alcohol, especially if the alcohol content of the beverages is the same. Therefore, a restriction on the method of production that would discriminate against beverages containing more than 5.5% but no more than 8% ethyl alcohol by volume on the basis of the method of production is not consistent and does not achieve the objective of protecting public health in a systematic manner.

The **prevention of distortions to competition** is one of the fundamental principles of the European Union, as set out in the Treaty on the Functioning of the European Union. According to Protocol No. 27 on the internal market and competition, the internal market as defined in Article 3 TFEU comprises a system that ensures undistorted competition.