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Published on *The Estonian Supreme Court* (<https://www.riigikohus.ee>)

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## **Control of the alcohol excise policy, including the increase of duty rates, is up to the legislator**

30 June 2017

According to the Supreme Court, the decision of the legislator to increase the excise duty rates for low-alcohol drinks faster than planned is not in breach of the Constitution.

The Chancellor of Justice turned to the Supreme Court for a constitutional review, because she considered that the early increase of the excise duty rates infringed on the freedom of alcoholic drink operators to conduct their business. The Chancellor of Justice stated that the alcoholic drink operators had a legitimate expectation that the excise duty rates that were put in place according to law in 2015 for the years 2017 and 2018 would not be increased.

The Constitutional Review Chamber of the Supreme Court did not agree with the Chancellor of Justice, and found that the alcoholic drink operators should not have developed a legitimate expectation on the basis of the law passed in 2015. The Chamber explained that the Constitution does provide for the principle of legitimate expectation, by which assurance must be provided that the established provisions will remain in place, but this does not deprive the parliament of the right to amend the laws.

The legislator has a wide degree of competence in introducing taxes, and this also means a wide margin of discretion in implementing the excise policy. Therefore, the body comprising the people's representatives may reshape the legal relationships in accordance with the changed circumstances, although this may inevitably worsen the situation for certain members of the society. "A situation where the duty rates are determined for years in advance, and where the legislator has no possibility to adjust them in accordance with the changed economic and social circumstances, may not be consistent with the principle of democracy," the Chamber added. Therefore, the judicial control in this matter is limited.

The Supreme Court agreed with the Chancellor of Justice that the disputed provisions will negatively affect the alcoholic drink operators' freedom to conduct business, because the increase in the product's end price due to the increase of the excise duty rate may result in a decreased demand, and therefore also a decrease in the operator's profit. At the same time, the Chamber noted that it is the state's duty to protect public health and, considering that alcohol is one of the main causes of damage to health, the restrictions that were established on the production, sale and consumption of alcohol are undoubtedly necessary. The alcohol pricing policy, including the excise duty, has an important role in the policy to combat the overuse of alcohol.

For the aforementioned reasons, the Supreme Court did not approve the application of the Chancellor of Justice to declare that the Income Tax Act, Social Tax Act and other legal amendments that provided for the increase in the alcohol excise duty rates faster than planned were in breach of the Constitution.

DECISION 3-4-1-5-17 [1]

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