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**NOTE**

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From:	General Secretariat of the Council
To:	Council
Subject:	Council Recommendation on smoke- and aerosol-free environments replacing Council Recommendation 2009/C 296/02 (legal basis proposed by the Commission: Article 168(6) TFEU) <i>- Statement by Italy and Romania</i>

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Delegations will find in the annex a statement by Italy and Romania to be included in the minutes of the EPSCO Council (Health) meeting on 3 December 2024.

**STATEMENT BY ITALY AND ROMANIA**

**Council Recommendation on smoke- and aerosol-free environments**

*Italy and Romania recognise the need to protect public health and agree that appropriate action needs to be taken to prevent the risks associated with smoking, with the aim of protecting the EU population from second-hand smoke.*

*However, we would like to stress that the procedure used in the discussions and approval of this act by the Council required discussion to take place between the Member States at a better time and under better circumstances.*

*Similarly, it is regrettable that many of the significant comments and amendments proposed by Member States have not been adequately considered and included in the text, given that this is an act which, due to its very nature and scope, should have been discussed and finalised with the aim of reaching consensus between the parties, taking due account of the national concerns and priorities clearly expressed by the Member States. In political terms, consensus-based positions are always the most appropriate course.*

*Furthermore, as has repeatedly been reiterated, we regret the failure to present a proper impact assessment for this act, as a basis for the Council to properly assess the proposed recommendations.*

*In view of the above, we express our hope that future discussions within the Council on this topic will take greater account of all the issues raised by the Member States.*

*As regards the assessment of the substance of the recommendations contained in the act, it should be stressed that generalised measures on aerosol-emitting products in certain outdoor areas, with specific reference to service establishments and workplaces, lack a sound scientific basis and a proper impact assessment and therefore should not have been included in the act.*

*Similarly, recommendations for broad and generalised measures for outdoor areas, which are not clearly identified and associated with concepts such as the presence of heavy foot traffic, have no legal basis and may cause uncertainty as to their meaning and the correct way to implement them, and therefore should not have been included in the act.*

*Lastly, it should be pointed out that this act adopted by the Council, given its very nature and scope, does not entail any legal obligation for the Member States to shape their national legislation appropriately, taking into account national competences and specificities as regards implementation, and no regulatory precedent is created for any future discussion in the Council on European tobacco policy.*

*For this reason, Italy and Romania maintain their political concerns regarding the appropriateness of some of the recommendations, as described above, as well as any further assessment, as Member States, of the correct national implementation of this act.*

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