

CMS Romania | No more flavoured vaping in Romania: Romanian Government enacts new restrictions on heated tobacco products



On 20 July 2023, the Romanian Government enacted Governmental Ordinance No 23/20.07.2023 amending and supplementing the Romanian Tobacco Law (GO 23), which implements several amendments to the legal framework of heated tobacco products in Romania. According to the government’s Statement of Reasons accompanying GO 23, these amendments appear linked to the conclusion drawn by the EU Commission that there is an EU-wide increase in the sales of heated tobacco products, which exceeds 2.5% of the total sales of tobacco products.

Prior to enacting GO 23 under the framework of Romanian Tobacco Law, only cigarettes and roll-your-own tobacco were subject to the prohibition of having a characterising flavour and containing flavouring in any of their components such as filters, papers, packages, capsules or any technical features allowing modification of the smell or taste of these tobacco products or their smoke intensity. The aim of GO 23 is to extend this prohibition to heated tobacco products and to impose more restrictive requirements on packaging and labelling of such heated tobacco products.

For the first time, GO 23 enacts a legal definition of “heated tobacco products” which refers to “a novel tobacco product that is heated to produce an emission containing nicotine and other chemicals, which is then inhaled by user(s), and that, depending on its characteristics, is a smokeless tobacco product or a tobacco product for smoking.” This definition will include any type of vaping devices that entail heating of tobacco in view of obtaining an inhalable emission containing nicotine and other chemicals.

Secondly, for products falling under this definition, GO 23 introduces a strict prohibition on placing heated tobacco products in the Romanian market with products a characterising flavour or containing flavouring in any of their components such as filters, papers, packages, capsules or any technical features allowing modification of the smell or taste of the tobacco products concerned or their smoke intensity. Thus, heated tobacco products with any type “characterising flavour”, such as menthol, fruits, etc., will no longer be allowed in the Romanian market.

Thirdly, according to GO 23, each unit of and any outside packaging of heated tobacco products must carry the mandatory information message: “Tobacco smoke contains over 70 substances known to cause cancer.”

GO 23 also states that each unit packet and any outside packaging of heated tobacco products for smoking must carry combined health warnings that observe all the requirement set out in Art. 10 of Romanian Tobacco Law, including but not limited to the requirements that they:

→ contain one of the text warnings listed in Annex 1 and a corresponding colour photograph specified in the

picture library in Annex 2 of Tobacco Law;

- include smoking cessation information such as telephone numbers, e-mail addresses or Internet sites to inform consumers about programmes available to support persons who want to stop smoking;
- cover 65% of both the external front and back surface of the unit packet and any outside packaging; etc.

All these restrictions related to heated tobacco products will apply in Romania beginning 23 October 2023.

Importantly, according to GO 23, all producers and importers of heated tobacco products in Romania must notify the Romanian Health Ministry within 90 days after the enactment of GO 23 whether the heated tobacco products placed in the Romanian market fall into one of the categories of the “heated tobacco” definition (i.e. smoking tobacco products or smokeless tobacco products).

The form and procedure for such mandatory notifications must be established through an Order issued by the Romanian Health Ministry within 30 days from the date GO 23 was published in the Romanian Official Journal.

The ultimate purpose of GO 23 is to implement at the national level the restrictions already adopted at EU level by Commission Delegated Directive (EU) 2022/2100 of 29 June 2022 amending Directive 2014/40/EU of the European Parliament and of the Council as regards the withdrawal of certain exemptions in respect of heated tobacco products.

According to the Romanian government’s Statement of Reasons, the target groups affected by GO 23 are “adults and young people who have used and/or use e-cigarettes or similar electronic devices”. In addition, GO 23 also indirectly targets current smokers and young people who may be attracted by the lure of products, such as heated tobacco products that appear to have lower health risks. According to the National Institute for Statistics’ (INS) Study on health status of the Romanian population, the share of adults who smoke daily in Romania represents 19% of the adult population. According to the same study, the percentage of smokers (daily or occasional cigarette smokers) in the 15-to-24 year age group is 19.97%.

Finally, another group affected by GO 23 is the producers and marketers of heated tobacco products in the Romanian market, for which there will be economic costs related to changes in the composition of heated tobacco products, as well as changes to the packaging and labelling requirements of their products.

For more information on the regulation of Romanian tobacco and heated tobacco products, contact your CMS client partner or these CMS expert **Anna Morogai**.