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Answer given by Mr Várhelyi
on behalf of the European Commission
(7.7.2026)

With regard to products that do not fall under harmonised EU legislation, such as nicotine pouches, measures having equivalent effect to quantitative restrictions within the meaning of Article 34 of the Treaty on the Functioning of the European Union (TFEU) can be considered justified when falling within one of the exceptions provided for in Article 36 TFEU, which include the protection of health and life of humans.

Considering the discretion of Member States to determine the level of protection which they wish to afford to public health and the way they want to achieve it, in accordance with the case-law of the Court of Justice of the European Union¹, the Commission has not identified sufficient elements indicating that the notified French legislation² would be unjustified or disproportionate to the need to protect the life and health of the population and particularly of minors.

As highlighted by the recent evaluation of the EU tobacco control framework³, novel tobacco and nicotine products, including nicotine pouches, pose serious health risks and represent a significant public health concern.

The Commission will undertake an impact assessment and continue the wide-ranging consultation process as a basis for considering possible future policy measures. At this stage, it would be premature to speculate on the content of the future revision of EU tobacco control legislation.

¹ See Case C-198/14, *Visnapuu*, ECLI:EU:C:2015:751.

² <https://technical-regulation-information-system.ec.europa.eu/en/notification/26692>.

³ https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13481-Evaluation-of-the-legislative-framework-for-tobacco-control_en.