

PRESS RELEASE

Amsterdam, March 28, 2013

The Supreme Court in The Hague held on Tuesday, March 26, 2013 that exemptions to the ban on smoking in small pubs is in conflict with the WHO Framework Convention on tobacco control (FCTC) and thus invalid. However, the State has the opportunity to appeal against this judgment, and it is very doubtful whether this Supreme Court ruling will be ratified. It is also important to note that this statement in principle only applies between the parties in the action, namely the State and the Non-Smokers Association CAN. The last word has absolutely not been said about this case.

## Application for enforcement of the smoking ban in small pubs rejected

CAN's claim that the Dutch State must enforce this decision was rejected in the court. The State is not obliged by the court to enforce a ban on smoking in small cafés. The court in its verdict stressed the broad discretion of the State in this regard.

## European court

In recent years various, sometimes contradictory, verdicts have been decided in different courts. There is still no final decision regarding the smoking ban in small hospitality businesses.

Depending on the further course of proceedings between the State and CAN, Horecaclaim Netherlands will consider taking this case towards the European courts.

## Advice and call to action for small pubs

Hospitality entrepreneurs should not be fooled by this verdict of the court in The Hague. As long as the State does not once again order the small pubs to comply with the smoking ban – which is not expected – pubs can still allow smoking on their premises. Those pubs that have not yet joined Horecaclaim Netherlands are invited to join the organisation, which was set up to claim damages for the economic consequences of smoking bans. Members benefit from the services of Horecaclaim's legal team, which can provide legal support for appeal procedures when (unlawful) fines are imposed.

Stichting Horecaclaim Nederland

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