

Request to the European Commission to submit a supplementary opinion on complaint 852/2014/LP

Correspondence - 10/10/2014

Case 852/2014/LP - Opened on 20/06/2014 - Recommendation on 01/10/2015 - Decision on 06/12/2016 - Institution concerned European Commission (Critical remark) |

Mr José Manuel Barroso President European Commission 1049 BRUSSELS BELGIQUE

Confidential

Strasbourg, 10/10/2014

Complaint 852/2014/LP

Dear Mr President

On 30 September 2014, the Commission sent me its opinion on the above complaint.

In its opinion, the Commission reiterated its strong commitment to complying with the EU's international commitments under the WHO Framework Convention on Tobacco Control (FCTC) and expressed its conviction " *that the EU and the Commission in particular have well-established rules for that purpose* ".

In its opinion, the Commission argues that the "ethical framework applicable to Members of the Commission and staff, and the Commission's rules and instruments concerning transparency and lobbying, meets high public service standards and it is thus "fully compatible with the non-binding FCTC guidelines". According to the Commission, the recent amendments to the Staff Regulations in the area of conflicts of interest, its 2012 guidelines on gifts and hospitalities, and the recently revised Practical Guide to staff on ethics and conduct contain recommendations regarding contacts with interest groups in general, while Regulation 1049/2001 ensures a high level of transparency and is compatible with the transparency requirements of the FCTC guidelines.

I note, however, that the Commission's opinion does not at all address the specific arguments that the complainant put forward in support of its allegation that, in practice, the Commission has failed properly to implement Article 5(3) of the WHO Convention and the accompanying



guidelines.

In particular, the complainant argued that, in the context of the discussions on the EU's Tobacco Products Directive, a substantial number of undisclosed meetings between Commission officials and the tobacco industry took place, and that only one Commission DG has rules and procedures in place to provide the required transparency concerning such meetings (DG SANCO).

According to the complainant, it is clear from the Commission's responses to questions from MEPs and from documents released under Regulation 1049/2001, that at least 14 undisclosed meetings with representatives from the tobacco industry took place, involving senior Commission officials, including officials from the Commission's Secretariat-General and members of your cabinet. The complainant also submitted that even though DG SANCO published online information on meetings it held with tobacco industry representatives, there have also been meetings for which despite its own stricter rules, DG SANCO did not provide the required information.

I should therefore be grateful if you could submit a supplementary opinion in which the Commission properly addresses the above issues. In particular, the Commission should specify whether there were indeed meetings between senior officials of the Commission (other than the staff of DG SANCO) and tobacco industry representatives, whether any record of such meetings was prepared and, if this was not the case, why no record was kept or made public. In that regard, I would also welcome a further clarification as to whether the Commission takes the view that, while DG SANCO is required to publish online the list of all meetings between members of its staff and representatives of the tobacco industry, no such obligation should apply to the rest of the Commission, and in particular with regard to senior officials working for Commission departments other than DG SANCO. If the reply to this question is affirmative, I should be grateful if the Commission could explain why this state of affairs should be considered compatible with the Commission's commitments under the WHO Framework Convention on Tobacco Control.

I should be grateful if your reply could reach me by 15 November 2014.

Please note that I have already received and granted several requests for public access to the opinion sent by the Commission on 30 September 2014. Since the opinion is therefore now in the public domain, it will be made available to the public on my website, together with the present letter.

Yours sincerely,

Emily O'Reilly