

European Ombudsman's implementation of Article 5(3) of the WHO Framework Convention on Tobacco control and the Guidelines adopted by the Parties to the Convention for the implementation of Article 5.3

Declarations and transparency - 30/09/2015

In 2003, the World Health Assembly adopted the **Framework Convention on Tobacco Control** (the "Convention"), which aims at reducing tobacco-related deaths and diseases around the world in a comprehensive manner. The EU concluded the Convention by Council Decision 2004/513/EC of 2 June 2004. The Convention entered into force on 28 September 2005.

Article 5(3) of the Convention provides as follows:

"In setting and implementing their public health policies with respect to tobacco control, Parties shall act to protect these policies from commercial and other vested interests of the tobacco industry in accordance with national law".

In order to implement the above provision, non-binding Guidelines (the "Guidelines") have also been adopted by the Parties to the Convention. These guidelines include a number of important principles regarding the way public officials and those entrusted with the regulation of tobacco interact with representatives of the tobacco industry.

In that regard, "Principle 2" of those Guidelines provides that:

" Parties, when dealing with the tobacco industry or those working to further its interests, should be accountable and transparent. Parties should ensure that any interaction with the tobacco industry on matters related to tobacco control or public health is accountable and transparent ".

The Guidelines also recommend, inter alia, that the Parties to the Convention should "establish measures to limit interactions with the tobacco industry and ensure the transparency of those interactions that occur".

The Guidelines do not apply only to those setting and implementing public health policies with respect to tobacco control but also " *to persons, bodies or entities that contribute to, or could contribute to, the formulation, the implementation, administration or enforcement of those policies "*.



As a body that investigates complaints about maladministration in the institutions and bodies of the European Union, the European Ombudsman is particularly keen to ensure strict compliance with the overall ethical framework that applies to EU officials including, transparency, conflicts of interest, revolving doors and accountability.

In complying therefore with Article 5(3) of the Convention and its implementing Guidelines the Ombudsman has thus decided to proactively publish online:

(i) any planned meetings of herself, members of her Cabinet, and her staff with representatives of the tobacco industry (including lawyers, advisors, consultants and lobbyists acting on behalf of tobacco companies)

(ii) the list of participants of such meetings, and

(iii) the minutes drawn up after a meeting has taken place

In line with the Ombudsman's commitment to strengthen further transparency and maintain an open dialogue with stakeholders, the Ombudsman and her staff will only interact with organisations and self-employed individuals acting on behalf of the tobacco industry who already feature in the Transparency Register jointly set up by the Commission and the European Parliament.

Moreover before any meeting request can be agreed, the Ombudsman and her staff will remind representatives of the tobacco industry of the above rules."