



To Sandra Gallina  
Director-General, Directorate-General for Health  
and Food Safety  
European Commission  
Rue de la Loi 200/ Wetstraat 200  
B- 1049 Bruxelles/Brussel

Cc Secretariat-General  
European Commission  
Rue de la Loi 200/ Wetstraat 200  
B - 1049 Bruxelles/Brussel

Brussels, 31 August 2023

**Subject: DG SANTE influence on think tanks based in Brussels**

Dear Ms Gallina,

We are writing to you regarding a recent decision from the European Policy Centre (EPC), a Brussels-based think tank, to terminate Tobacco Europe's membership due to **DG SANTE's refusal to engage with any of their initiatives as long as Tobacco Europe remains one of its members.**

Tobacco Europe requested additional information from the EPC on their decision to terminate our membership and was provided with the following reply: "***If you have questions about why DG Sante will not engage with the EPC while you are members, please write to them directly for an explanation***". See annex 1.

We herewith urge the Commission to provide us with an explanation regarding the nature of these worrying claims and most importantly, we would like to receive the legal arguments underpinning this request from DG SANTE to the EPC. In fact, as a result from this intimidatory request, Tobacco Europe has been denied the opportunity to remain a member of this think tank.

Tobacco Europe views EPC decision to terminate said membership as the direct result of DG SANTE's unfounded request. Tobacco Europe believes that such attempts by DG SANTE to discriminate and single out the tobacco and new nicotine products industry is unlawful and possibly based on an incorrect interpretation of Article 5.3 of the WHO FCTC. Tobacco Europe regards this as truly unacceptable and at odds with democratic norms and good governance principles of the European Union.

This discrimination against a single business sector, totally unjustified by law or agreed practice, sets a chilling precedent which is counterproductive to democratic values and good governance and is sure to undermine citizens' trust in the EU's institutions.

*Tobacco Europe - AISBL  
Avenue de Cortenbergh, 120  
B- 1000 Brussels  
Registered number 089 438 919 • EU Transparency number: 1496873833-97*



We herewith would like to remind you that Article 5.3 of the FCTC states: “*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*”.

Article 5.3 aims to ensure accountability and transparency in interaction with stakeholders, as well as independence and impartiality in decision-making. It does neither provide a justification for refusing dialogue with the industry, especially when the dialogue is not related to public health policies, nor legal ground to expel our association from a third-party membership.

Such interpretation was further confirmed by the EU Court of Justice in 2022<sup>1</sup>, when a judgement was delivered on the methods to measure the emission levels: it clearly stressed that Article 5(3) of the FCTC does not prohibit all tobacco industry involvement in tobacco control policymaking but seeks to prevent tobacco control policies from being influenced by tobacco industry interests.

Therefore, we believe that the practice of declining meeting requests from the tobacco industry or from a third party with a transparent relationship with the tobacco industry should not be acceptable, if simply based on the argument that Article 5.3 of the FCTC requires interactions with the industry to be strictly necessary.

In this perspective, we urge DG SANTE to recall the request made to the EPC or to provide any legal justification for it. We would also welcome any reassurances from DG SANTE that such measures will no longer be used with any other think tank or third party.

Finally, we would welcome a meeting, at your best convenience, to allow for a transparent exchange on the matter, including the misinterpretation of Article 5.3 of WHO FCTC.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "N. Darge", with a long horizontal line extending to the right.

Nathalie Darge  
Director Tobacco Europe

**Attachments:**

- Annex 1: EPC reply to our request to receive additional information on their decision sent on 12 June 2023 (dated 17 May).
- Annex 2: First EPC letter to inform Tobacco Europe about the termination of its membership sent on 23 May 2023 (dated 17 May)

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<sup>1</sup> [case C- 160/20](#)