

Complaint European Commission

“The European Union sees human rights as universal and indivisible. It actively promotes and defends them both within its borders and when engaging in relations with non-EU countries.

Human rights, democracy and the rule of law are core values of the European Union. Embedded in its founding treaty, they were reinforced when the EU adopted the Charter of Fundamental Rights in 2000, and strengthened still further when the Charter became legally binding with the entry into force of the Lisbon Treaty in 2009.”

Complaint European Commission

This complaint pertains to Art. 20, previously Art.18 of the Tobacco Products Directive.

This Complaint relies upon the “Code of good administrative behaviour” I contend that poorly considered recommendations from the Commission led to legislation by the European Parliament, that if enacted on the National level will violate mine and other European Citizens Human Rights.

It is generally accepted that smokers have their own individual requirement for the amount of nicotine to attain and maintain satisfaction.

It is also generally accepted that it is not the nicotine that does harm but the tar and 4000 or so other chemicals created from the burning of tobacco that does damage to smokers health and can shorten their life expectancy.

Any legislation that directly or indirectly leads to smokers increasing the amount of cigarettes they smoke must be considered as a violation of the “Right to Life” enshrined in European and International Human Right conventions. I contend that the same principle should be applied when considering Electronic Cigarettes and the other constituents of E liquid apart from the nicotine.

The Convention on Human Rights places a positive obligation on Member States of the EU to respect the "Right to Life". This is presently interpreted as excluding Public Authorities, including Governments from enacting legislation that may put their citizens lives in danger or which could affect their life expectancy.

The European Commission, against the recommendations of several scientists and other experts in the field added a new Article to the Tobacco Products Directive Art.18, currently Art.20.

The Commissions recommendations which were accepted and passed by the European Parliament have requirements for member States to limit the strength of nicotine to 20mg/ML upper limit for E-liquids used for Electronic Cigarettes.

Although it is generally accepted that obtaining nicotine via Electronic Cigarettes is many times safer than via burning tobacco, the other ingredients of E liquid may still have adverse effects, with the the chances of harm increasing with the amounts of vapour inhaled.

It is highly unlikely the European Commission/Parliaments legislation to restrict the strength of E liquid will decrease the amount of nicotine an ex-smoker will ingest to satisfy their nicotine requirement, so the only logical outcome from limiting the nicotine strength is more E liquid will be required for satisfaction.

To put this simply, whatever strength of nicotine the Commission/Parliament impose on Cigarettes or Electronic

Cigarettes, users of stronger strengths will merely vape or smoke more to attain/maintain satisfaction. This will increase the amount some citizens smoke or vape which surely can not be considered as responsible legislation.

I have complained to the Commission previously, however not on this issue of Human Rights. I believe the legislation could have dire health consequences for myself and many citizens of the EU.

I did not raise the Human Right issue as it was not particularly referred to in the "Code of good administrative behaviour", however after further reading I now consider it was an issue the Commission should have taken into account before making recommendations to the Parliament.

The European Ombudsman has stated that the actions of the Commission are not her concern when they are a part of a legislative procedure, I now consider that to be incorrect. See below for a quote from the Ombudsman's website.

"The Ombudsmen as human rights protection mechanisms

As the former Commissioner for Human Rights of the Council of Europe, Alvaro Gil Robles stated: "Through their independence, flexibility and non-conflictual approach to the relations between individuals and the public administration, Ombudsmen have a key role to play in the protection of individual rights. (...) Whilst explicit reference to human rights protection may be absent from the mandate of certain ombudsmen, it is clear that human rights violations by state authorities constitute, at the same time, serious cases of maladministration, and as such fall within the concerns of even the most narrowly defined institutions".

In the case of the European Ombudsman, Article 228 of the Treaty on the Functioning of the European Union empowers me to investigate complaints about maladministration in the activities of the Union institutions, bodies, offices, or agencies. From the very beginning of the European Ombudsman's activity, the term "maladministration" has been interpreted broadly and in a manner that makes it possible to include respect for the rule of law, for principles of good administration, and for fundamental rights in the Ombudsman's remit. This means that allegations that the institutions have breached a fundamental right fall within my mandate."

I will also be putting this complaint to the European Ombudsman and Parliament.