



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION

The Director-General

20. 07. 2016

Brussels,  
Taxud R2/SV – ARES(2016)3883795

Mr Almos Molnar  
Avenue Emile de Beco 44/A  
BE - 1050 Brussels

[molnar.almos@gmail.com](mailto:molnar.almos@gmail.com)

*(via e-mail and registered mail)*

Dear Mr Molnar,

**Subject: Your application for access to documents – Ref GestDem No 2016/3433**

I acknowledge receipt of your e-mail dated 20 June 2016 in which you make a request for access to documents as follows: "... all available documents related to the work of "F2020 FPG/050 \_ PG\_Classification and inclusion of (new) products in the scope of excisable tobacco products (E03296)", such as agendas and minutes taken at the meetings of this Commission Expert Group".

Following your request that has been dealt with in accordance with Regulation 1049/2001 on public access to Commission documents, we identified the following documents:

*"Doc 1 – Fiscalis project group agenda meeting, 18 June 2015,  
Doc 2 – Fiscalis project group agenda meeting, 18 February 2015,  
Doc 3 – Fiscalis project group draft agenda meeting, 28 April 2015,  
Doc 4 – Fiscalis project group agenda meeting, 7 October 2015,  
Doc 5 – Note for the attention of the heads of delegation to the indirect tax Expert Group,  
Doc 6 – Note to the Fiscalis 2020 Programme coordinators – invitation 4<sup>th</sup> meeting,  
Doc 7 – Note to the Fiscalis 2020 Programme coordinators – invitation 3<sup>rd</sup> meeting,  
Doc 8 – Note to the Fiscalis 2020 national coordinators – invitation 1<sup>st</sup> meeting,  
Doc 9 - Note to the Fiscalis 2020 national coordinators – invitation 2<sup>nd</sup> meeting,  
Doc 10 - Note to the Fiscalis 2020 Programme coordinators – invitation 2<sup>nd</sup> meeting,  
Doc 11 - ED n° 862,  
Doc 12 – Electronic cigarettes,  
Doc 13 – FPG Tobacco,  
Doc 14 – Tobacco products,  
Doc 15 – Planning of the work on e-cigarettes,  
Doc 16 – FPG Tobacco meeting, 18 June 2015,*

Commission européenne, B-1049 Bruxelles / Europese Commissie, B-1049 Brussel - Belgium. Telephone: (32-2) 299 11 11.  
Office: J-79 (5/230) Telephone: direct line (32-2) 2965897

[Stephen.quest@ec.europa.eu](mailto:Stephen.quest@ec.europa.eu)

*Doc 17 – Regulating E-cigarettes in the EU,  
Doc 18 – Raw Tobacco."*

Having examined the documents requested under the provisions of Regulation (EC) No 1049/2001 regarding public access to documents, I regret to inform you that only partial access to the documents can be granted, as full disclosure is prevented by exception to the right of access laid down in Article 4 of this Regulation.

Some parts of the documents listed above indeed contain information related to the revision of Directive 2011/64/EU and the possible options to include e-cigarettes and raw tobacco in the scope of this Directive. Making these parts public would severely reduce the Commission's room for maneuver in the on-going discussions and could thus seriously undermine the Commission's decision-making process, as well as the Commission's position in the ensuing inter-institutional negotiations with the Council.

Therefore, full disclosure of the requested documents would undermine the protection of the decision-making process of the Commission in accordance with Article 4 (3), first paragraph of Regulation 1049/2001 which states that *"Access to a document, drawn up by an institution for internal use or received by an institution, which relates to a matter where the decision has not been taken by the institution, shall be refused if disclosure of the document would seriously undermine the institution's decision-making process, unless there is an overriding public interest in disclosure "*.

Please note further that there is no overriding public interest in disclosure of the documents which would outweigh the need to protect the decision-making process of the Commission.

Furthermore, the documents listed contain the personal data of officials and citizens.

Pursuant to Article 4(1) (b) of Regulation (EC) No 1049/2001, access to a document has to be refused if its disclosure would undermine the protection of privacy and the integrity of the individual, in particular in accordance with Community legislation regarding the protection of personal data. The applicable legislation in this field is Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data<sup>1</sup>.

When access is requested to documents containing personal data, Regulation (EC) No 45/2001 becomes fully applicable<sup>2</sup>. According to Article 8(b) of this Regulation, personal data shall only be transferred to recipients if they establish the necessity of having the data transferred to them and if there is no reason to assume that the legitimate rights of the persons concerned might be prejudiced.

We consider that, with the information available, the necessity of disclosing the aforementioned personal data to you has not been established and that it cannot be assumed that such disclosure would not prejudice the legitimate rights of the persons concerned. Therefore, we are disclosing the documents requested expunged from such personal data.

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<sup>1</sup> OJ L 8 of 12.1.2001, p. 1

<sup>2</sup> Judgment of the Court of Justice of the EU of 29 June 2010 in case 28/08 P, Commission/The Bavarian Lager Co. Ltd, not yet reported

If you wish to receive these personal data, we invite you to provide us with arguments showing the need for having these personal data transferred to you and the absence of adverse effects to the legitimate rights of the persons whose personal data should be disclosed.

In case you would disagree with the assessment that the expunged data are personal data which can only be disclosed if such disclosure is legitimate under the rules of personal data protection, you are entitled, in accordance with Article 7(2) of Regulation 1049/2001, to make a confirmatory application requesting the Commission to review this position.

In accordance with Article 7(2) of Regulation 1049/2001, you are entitled to make a confirmatory application requesting the Commission to review this position.

Such a confirmatory application should be addressed within 15 working days upon receipt of this letter to the Secretary-General of the Commission at the following address:

European Commission  
Secretary-General  
Transparency unit SG-B-4  
BERL 5/282  
B-1049 Brussels  
or by email to: [sg-acc-doc@ec.europa.eu](mailto:sg-acc-doc@ec.europa.eu)

You may reuse the documents requested free of charge for non-commercial and commercial purposes provided that the source is acknowledged, that you do not distort the original meaning or message of the documents. Please note that the Commission does not assume liability stemming from the reuse.

Yours faithfully,



Stephen Quest

Annexes: as stated above