

# Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU

2018/2096(INI) - 04/12/2018 - Committee report tabled for plenary, single reading

The Committee on Constitutional Affairs and the Committee on Petitions have adopted an own-initiative report prepared jointly by Jo LEINEN (S&D, DE) and Yana TOOM (ALDE, EE) on the Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU.

## *Addressing the democratic deficit*

Recalling the current criticism of the European Union for its democratic deficit, Members stressed that the fact that one of its three main institutions takes decisions without the transparency expected of a democratic institution is detrimental to the European project.

The decision-making process at European level should be fully democratic and highly transparent in order to increase citizens' trust in the European project and the EU institutions, especially in the run-up to the European elections in May 2019.

Members shared the Ombudsman's view that the Treaties impose a legal obligation to ensure that citizens are able to understand, follow in detail and participate in the legislative process, which is essential for the establishment of a modern democratic system.

A high level of transparency of the legislative process is essential to enable citizens, media and stakeholders to hold their elected representatives and governments accountable but also act as a safeguard against the spread of speculation, fake news and conspiracy theories.

The report deplored that, unlike committee meetings in Parliament, meetings of preparatory bodies and the majority of debates in the Council are held **behind closed doors**, that a large proportion of documents relating to **legislative files** are not published proactively by the Council and that documents relating to legislative dossiers distributed in its preparatory bodies are systematically classified under the marking '**LIMITE**'.

The lack of information prevents national parliaments from monitoring government action in the Council. It also leads to an imbalance in the information available and thus gives the Council a structural advantage over Parliament.

Members also wanted a high level of transparency to be applied to **trilogues**, which have become commonplace in reaching agreements on legislative dossiers.

## *Recommendations to the Council*

Members fully endorsed the European Ombudsman's recommendations to the Council and urges the Council – as a minimum – to take all measures necessary to implement as swiftly as possible the recommendations of the Ombudsman, namely:

- to systematically record the identity of Member State governments when they express positions in Council preparatory bodies;
- to develop clear and publicly available criteria for how it designates documents as 'LIMITE', in line with EU law;
- to systematically review the 'LIMITE' status of documents at an early stage, before the final adoption of a legislative act, including before informal negotiations in trilogues, at which point the Council will have reached an initial position on the proposal.

The report reiterated its call for the **improvement of the exchange of documents and information** between Parliament and the Council and for access to be granted to representatives of Parliament as observers to meetings of the Council and its bodies, in particular in the case of legislation, in a way equivalent to which Parliament grants the Council access to its meetings.

The Council is invited to:

- align its working methods with the standards of a parliamentary and participatory democracy, as required by the Treaties, rather than acting as a diplomatic forum;
- transform itself into a **real legislative chamber** in order to create a genuine bicameral legislative system involving the Council and Parliament, with the Commission acting as the executive;
- use qualified majority voting and refrain, as far as possible, from taking decisions by consensus and therefore without a formal public vote.

Lastly, Members called for the **Eurogroup** to be fully formalised during the next revision of the Treaties in order to ensure appropriate public access and parliamentary control.