

Ombudsman finds Council has given no valid reasons for continuing to legislate behind closed doors

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The European Ombudsman, **P. Nikiforos Diamandouros**, has found that the Council has given no valid reasons for refusing to meet in public whenever it is acting in its legislative capacity. The Ombudsman has forwarded this finding in a special report to the European Parliament, with a recommendation that: *"The Council of the European Union should review its refusal to decide to meet publicly whenever it is acting in its legislative capacity."* The Ombudsman presented this special report to Parliament's Committee on Petitions this morning.

A special report is the Ombudsman's final recourse and is presented only in relation to important matters, on which Parliament could help persuade the institution or body concerned to alter its position.

The case

The Ombudsman's inquiry into this matter followed a complaint from German MEP, Elmar Brok, and a representative of the youth group of the CDU (Christian Democratic Union), in which they allege that the Council's Rules of Procedure are not in conformity with Article 1 (2) of the Treaty on European Union (as amended by the Treaty of Amsterdam in 1997) according to which the Council and the other Community institutions and bodies must take decisions as openly as possible.

The Council argued that the degree of openness of its meetings is a political choice to be made by the Council. The Ombudsman disagreed on the grounds that Article 1 (2) of the Treaty on European Union applies to the Council and that although Article 207 of the EC Treaty provides for it to adopt its own Rules of Procedure, it does not provide that the degree to which its meetings in its legislative capacity are to be open to the public should be regarded as a political choice and left to the discretion of the Council.

The Council also argued that Article 1 (2) of the Treaty on European Union merely indicated that the *future* Union should be as open as possible. The Ombudsman took the view that subsequent developments (i.e. since 1997) should also be taken into account. He pointed out that the Council had already adopted new Rules of Procedure in 2000 that provided for increased openness of its meetings as a legislator. In the Ombudsman's view, the Council thus made clear that steps to increase the transparency of its legislative activity had to and could be



taken. The adoption of these new Rules of Procedure also confirmed that doing so was and is possible under Community law as it presently stands.

The Ombudsman therefore concluded that the Council had failed to submit any valid reasons as to why it should be unable to amend its Rules of Procedure with a view to opening up the relevant meetings to the public.

The special report is available on the Ombudsman's website at:

<http://www.ombudsman.europa.eu/cases/specialreport.faces> [Link]

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