

Follow-up response from the European Ombudsman to the reply of President Dijsselbloem to her letter concerning Eurogroup transparency

Correspondence - 30/08/2016

Case SI/5/2016/EA - **Opened on** 14/03/2016 - **Decision on** 30/11/2016 - **Institution concerned** Council of the European Union |

Mr Jeroen Dijsselbloem

President of the Eurogroup

Ministry of Finance

Korte Voorhout 7

Postbus 20201

2500 EE The Hague

THE NETHERLANDS

To be transmitted via email to:

dgg1a.economic-policy@consilium.europa.eu [Link]

Strasbourg, 30/08/2016

Re: Ongoing efforts to improve Eurogroup transparency

Dear Mr President,

Thank you for your response, dated 16 May 2016, to my request to consider further steps to enhance the transparency of the Eurogroup. I found the following clarifications contained in your letter to be particularly encouraging:



(i) It is an aim of the Eurogroup to adhere to the spirit of rules and principles set out in the Treaties and the Eurogroup is taking concrete steps in that regard;

(ii) One such principle is transparency. The Eurogroup considers that it has a proactive transparency policy and draws on Article 4 of Regulation 1049/2001 on public access to documents to help it evaluate whether or not documents can be disclosed proactively;

(iii) Citizens can address their requests for public access to Eurogroup documents directly to you or to the Eurogroup's support structures (i.e. the General Secretariat of the Council and the Commission-based Secretariat of the Eurogroup Working Group).

I agree that these steps and statements are helpful in promoting proactive Eurogroup transparency. I also agree that these initiatives, that you personally have championed, need time to demonstrate their effectiveness. As you and Eurogroup support staff continue to consider improvements over the coming months, please allow me to reiterate some points that you and your colleagues may wish to continue to reflect upon.

First, you signal that individual requests for public access submitted to you or to the Eurogroup's support structures will continue to be addressed by the institutions (i.e. the Council or the Commission) holding the **relevant [1]** documents and which are therefore responsible for applying Regulation 1049/2001. It is possible that in some cases Eurogroup related documents are not held either by the Council or by the Commission (for instance, this could be the case for documents circulated among national delegations participating in Eurogroup meetings). It would be useful to clarify how you will deal with requests, made to you, for public access to documents which are not held either by the Council or the Commission.

Second, your letter makes clear that the Eurogroup Working Group (EWG) is the main preparatory body for the Eurogroup. As regards the scope for enhancing its transparency, you referred to the Council Decision that sets out the confidentiality of the Economic and Financial Committee's proceedings (the EWG being the euro area configuration of that Committee). You also invoke Recital 11 of Regulation 1049/2001, according to which "*the institutions should be entitled to protect their internal consultations and deliberations where necessary to safeguard their ability to carry out their tasks*". In my experience, publishing notices and provisional agendas of meetings is not a measure that is likely to automatically undermine the protection of internal consultations and deliberations and the confidentiality of proceedings. Article 11(4) of Annex II of the Council's Rules of Procedure would seem to acknowledge that fact by stating that:

" Provided that they are clearly not covered by any of the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001, the General Secretariat may also make the following documents available to the public as soon as they have been circulated: (a) provisional agenda of committees and working parties".

To my mind it is important to shed some light on the EWG's input to Eurogroup meetings. For



now, it is still not possible for the public to easily understand the significance of what you have referred to as "*technical level*" discussions. By way of example, my Office was not able to identify any official document relating to the EWG's Rules of Procedure. [2] [Link] While the 'Eurogroup Working Methods' presumably make reference to the EWG, this document does not seem to be public either.

Third and linked to my second point, in your transparency proposals of December 2015, you suggested that programme documentation be made publicly available ahead of Eurogroup (and European Stability Mechanism (ESM) Board of Governors) decision-making to allow for transparent communication with national parliaments in relevant Member States. However, at the Eurogroup meeting of March 2016, it was decided that documents submitted to the Eurogroup will, as a rule, be published shortly after meetings, unless there are well-founded objections, such as in the case of "*documents which are still work in progress, and/or subject to further substantial changes*". By way of contrast, I have noted that the ESM Board of Governors recently decided to publish "*a number of programme-related documents, such as draft MoUs, draft financial facility agreements (FFAs) ... ahead of Board of Governors and Board of Directors meetings*". In view of this development, it would be useful for the Eurogroup to reconsider your proposal regarding the publication of draft programme country-related documents.

Fourth, I mentioned in my previous letter that it is currently not possible to obtain an overview of Eurogroup documentation that citizens can request. I note, however, from your summing up letter of 11 March 2016 that the recent transparency discussions covered publication of "*the bulk of Eurogroup documents*". At least as regards "*all documents on which the political debate in the Eurogroup is based*" to which, according to your reply, the proactive transparency regime will apply, it is reassuring that the public can now obtain an accurate picture.

Let me conclude by signalling once again that your determination to inject greater transparency into the work of the Eurogroup is most welcome. My input is geared toward supporting your initiative drawing on my institutional experience in dealing with questions of transparency and issues of public interest. I look forward to further positive engagement on this matter.

Yours sincerely,

Emily O'Reilly

[1] [Link] Emphasis added by the Ombudsman.

[2] [Link] Article 1 of Protocol No14 on the Eurogroup contains limited information on this preparatory body.