

Ombudsman opens inquiry into transparency of Council legislative work

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The European Ombudsman, **Emily O'Reilly**, has opened an inquiry into whether the Council of the EU allows sufficient public scrutiny of the evolving discussions on draft EU laws.

The Ombudsman has put 14 questions to the Council on how legislative documents arising from meetings of Member State Ambassadors and deputy Ambassadors, plus the over 150 committees and working parties of national civil servants are handled in accordance with EU transparency standards.

The questions include when and how the positions of individual Member States on draft laws are recorded and how the Council has dealt with a 2013 European Court of Justice ruling on the Council's access to documents policy.

"The Council is a co-legislator with the European Parliament, working to improve the lives of over 500 million Europeans. The aim of this inquiry is to shed light on how draft EU laws evolve as they progress through the various meetings of national civil servants and ambassadors in the Council before finally being agreed by government ministers" said Ms O'Reilly.

"There appear to be different practices in preparatory meetings in relation to the documenting of outcomes or compromise proposals, and when these documents are published. While there must be scope for flexibility, such documents are nonetheless the only way the public can follow the process and see the changes made to draft EU laws in the Council.

"In the current political climate, it is vital to ensure clarity for EU citizens on the shaping of EU laws. This would help to clear up some popular misunderstandings about who exactly develops and agrees new laws, and separate out in the public mind the responsibility of 'Brussels' from the responsibility of the Member States. This would also help the Council to further its clear commitment to transparency," said Ms O'Reilly.

Background

Representatives from the Ombudsman's office have had two constructive meetings with the General Secretariat of the Council to discuss the transparency arrangements for Council preparatory bodies.



In her inquiry opening letter to Secretary-General Tranholm-Mikkelsen, the Ombudsman asked for information in four areas: the consistency of practices between working parties; the completeness of the Council's document register; the accessibility of documents on the Council's document register; and the recording of Member States' individual positions.

On this last issue, the Ombudsman requested details on how a European Court of Justice ruling (C-280/11 P) in 2013 has affected the Council's disclosure policy. In the *Access Info Europe* case, the Court found that the Council was wrong to refuse public access to parts of a note from the General Secretariat of the Council containing proposals for amendments tabled by Member States.

The Ombudsman has asked for a reply in June 2017.

The European Ombudsman's letter to Secretary-General of the Council is available [here \[Link\]](#).