

Follow-up response from the Ombudsman's Secretary-General to the Secretary-General of the Council concerning information provided by the Council to the public in relation to what is commonly referred to as the "EU-Turkey statement" (SI/4/2017/EA)

Correspondence - 12/06/2017

**Case SI/4/2017/EA - Opened on 12/06/2017 - Decision on 05/12/2017 - Institution
concerned** Council of the European Union |

Mr Jeppe Tranholm-Mikkelsen

Secretary-General of the Council of the European Union

Strasbourg, 05/12/2017

**Re: Information provided by the Council to the public in relation to what is commonly
referred to as the "EU-Turkey statement" (SI/4/2017/EA)**

Dear Mr Tranholm-Mikkelsen,

Thank you for your response of 27 July 2017 to my letter concerning information provided by the Council to the public on what is commonly referred to as the "EU-Turkey statement". In my letter, I suggested that the Council take appropriate action to ensure that the public is accurately informed about the statement in light of a ruling by the General Court.

In your reply, you note that the General Court ruling is currently under appeal. Therefore, you maintain, any change or addition to the text of the press release would be inappropriate at this moment in time. You add that the Council considered adding to the press release a reference to the existence of pending judicial proceedings. However, you concluded that it would be neither proportionate nor appropriate to refer systematically to pending judicial proceedings. You took this view based on the fact that there are numerous judicial proceedings challenging Council acts every year and that the legality of the acts in question has to be presumed until the competent courts have ruled definitively on the validity of those acts.

I agree that modifying the text of the press release at this stage may not be appropriate. However, the European Ombudsman takes the view that the addition of a simple footnote in this



specific press release, indicating that the issue is currently subject to judicial review, would serve the public interest in receiving accurate information. Such a footnote would not affect the ongoing proceedings before the Court nor would it have any implications for the current validity of the act in question.

You argue in your reply that establishing a practice of *systematically* adding footnotes in press releases, which deal with ongoing Court proceedings, would be disproportionate. The Ombudsman accepts the validity of this argument. However, the Ombudsman is not suggesting that the Council adopt a *systematic* approach whereby it adds a footnote to all previously issued press releases where Court proceedings have been initiated. The case of the “EU-Turkey statement” is both exceptional and of significant public interest. It is the view of the Ombudsman that the Council should deal with this particular, exceptional case on an exceptional basis and add a footnote to the existing press release which will inform the public about the present situation regarding the “EU-Turkey statement”.

Yours sincerely,

Beate Gminder

Secretary-General