



European Ombudsman strategic inquiry on the transparency of trilogues: follow-up and first results

Correspondence - 17/01/2018

Case OI/8/2015/JAS - **Opened on** 26/05/2015 - **Decision on** 12/07/2016 - **Institutions concerned** European Parliament (No further inquiries justified) | Council of the European Union (No further inquiries justified) | European Commission (No further inquiries justified) |

On 12 July 2016, the European Ombudsman issued a decision on her strategic inquiry OI/2015/JAS concerning the transparency of trilogues. Trilogues are informal negotiations between representatives of the European Parliament and the Council of the European Union, supported by the European Commission, aimed at reaching agreement on legislative proposals. In her decision, the Ombudsman made **eight proposals** to increase the transparency of the trilogue process with a view to enhancing the accountability of and public participation in EU law-making.

In December 2016, the Parliament, Council and Commission outlined their initial follow-up to the Ombudsman's decision and the recently agreed Interinstitutional Agreement on Better Law-making. The Ombudsman then asked the Parliament, Council and Commission for an update on the progress of discussions by the end of 2017.

The Parliament, Council and Commission have now provided the Ombudsman with this update. On this basis, the Ombudsman summarises the follow-up to her proposals as follows:

- The three institutions are working on putting in place a **joint database on the state of play of legislative files**. This database is meant to offer easy-to-use and easy-to-understand information on the various steps of the legislative process and should also link to documents already available in other databases. The development of the database is expected to start in 2018.
- Regarding the **publications of the trilogue negotiation mandates**, the Council will soon discuss making the practice whereby Ministers themselves authorise the opening of trilogue negotiations the general rule. That way, the Council's negotiating mandate would be made publicly available before trilogue negotiations start. The Parliament, which already always publishes its mandates, has also introduced measures to make it more visible when it intends to enter into trilogue negotiations through recent changes to its Rules of Procedure. This decision is now systematically subject to a check by the Parliament Plenary.
- The Council also intends to provide the name of the Minister and (Deputy) Permanent Representative **responsible for each legislative file** under negotiation. Moreover, the Council configuration responsible for the file will be added to further enhance traceability.



The Commission also agreed that the responsibility for trilogues could be made clearer by identifying the responsible Commissioner and Directorate General. Such information could be provided in the context of the future **joint legislative database** .

- The three institutions are in the process of assessing how to make (more easily) available the **dates of upcoming trilogues, summary agendas** and links to any **minutes** or videos of the institutions' public meetings where a trilogue has been discussed, possibly in the context of the future **joint legislative database** .

- The institutions informed the Ombudsman that two of her proposals, namely the proactive publication, as soon as possible after the negotiations have been concluded, of so-called **four-column documents** and of **lists of documents tabled** during trilogue negotiations, touch on matters which are pending before the General Court in case T-540/15 *De Capitani v Parliament* . The institutions will wait for the judgment in this case before deciding which steps to take concerning the Ombudsman's proposals.

The Ombudsman commends the three institutions for their constructive engagement on her proposals.