

## Ombudsman says Member States must open up their opaque negotiations on EU laws

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Following a detailed inquiry, the European Ombudsman, **Emily O'Reilly**, has found that the Council of the EU - through practices that inhibit the scrutiny of draft EU legislation - undermines citizens' right to hold their elected representatives to account. This constitutes maladministration.

The Ombudsman specifically criticises the Council's failure systematically to record the identity of Member States taking positions during discussions on draft legislation, and the widespread practice of disproportionately marking documents as not for circulation, or "LIMITE".

The approach falls short of what is expected of the Council in terms of legislative transparency.

The Ombudsman is now asking the Council systematically to record Member State positions in Council working parties and in COREPER ambassador meetings and, in principle, to make these documents proactively available to the public in a timely manner. Ms O'Reilly is also calling for clear criteria for using the 'LIMITE' status and that the status be reviewed before a law is adopted.

*"It's almost impossible for citizens to follow the legislative discussions in the Council between national government representatives. This 'behind-closed-doors' approach risks alienating citizens and feeding negative sentiment," said Ms O'Reilly.*

*"National government representatives involved in legislative work are EU legislators and should be accountable as such. If citizens do not know what decisions their governments are taking, and have taken, while shaping EU laws, the 'blame Brussels' culture will continue. EU citizens have a right to participate in the making of laws which affect them, but to do so, they need more openness from their governments in Brussels.*

*"Making the EU legislative process more accountable to the public, by being more open, would send an important signal ahead of the European elections in 2019," said the Ombudsman.*

The Ombudsman's Recommendation and list of suggested improvements can be found [here \[Link\]](#). The Ombudsman expects the Council to reply by 9 May 2018.



## **Background**

The Council is co-legislator along with the European Parliament. Before the national Ministers meeting in the Council reach a formal position on a draft law, preparatory discussions take place in the Council's meetings of national ambassadors and in the over 150 Council working parties attended by national civil servants.

During the course of her inquiry, the Ombudsman put 14 specific questions to the Council and her office inspected the documents of three Council files to get an insight into how documents are produced, circulated and published.

The office also organised a public consultation, which received 21 submissions including from members of the public, national parliaments, civil society and academics.

The Ombudsman's inquiry also showed, for example, that in order to get a full picture of all documentation concerning one piece of legislation, four different searches in the Council document register are needed for negotiations in preparatory bodies and two searches in other sections of the website for discussions at Council level.