

## LERU's response to the European Ombudsman public consultation on the transparency of trilogues

The Ombudsman invites you to give your views on the following points:

**1. In your opinion, is the way in which EU legislation is negotiated through the trilogue process sufficiently transparent? Please give brief reasons for your answer.**

Opacity is permeating the EU legislative process through the use of trilogues. Trilogues are notorious for being one of the least transparent components of the ordinary legislative procedure. Something particularly worrying, given the increasing use of them.

Following the interinstitutional agreement on better law-making adopted by the Council in March 2016, the institutions should strive to make a reality their commitment to improve the work done under the ordinary legislative procedure in line with the principles of transparency and accountability.

**2. Please explain how, in your view, greater transparency might affect the EU legislative process, for example in terms of public trust in the process, the efficiency of the process or other public interests.**

The EU and its institutions cannot afford to increase the democratic deficit felt by numerous European citizens by consolidating legislative practices which decrease the accountability and transparency of the EU institutions. The political rhetoric on the importance of the sense of ownership of the European project by the EU citizens is in stark contrast with an increase amount of EU legislation being drafted behind closed doors. Why has the European Parliament invested so heavily in having most of its Committees and Plenary meetings broadcasted, in making the meeting documents available to the public,.. if then the political negotiations with the other co-legislator and with the European Commission are hidden from the public?

**3. The institutions have described what they're doing about the proactive publication of trilogue documents[5]. In your opinion, would the proactive release of all documents exchanged between the institutions during trilogue negotiations, for example "four-column tables"[6], after the trilogue process has resulted in an agreement on the compromise text, ensure greater transparency? At which stage of the process could such a release occur? Please give brief reasons.**

Publication of the documents should occur during the trilogue negotiations and not only as a result of them. Democratic accountability should prevail during the whole legislative process and trilogues are a core part of it. Europeans should be able to know the position adopted by the three institutions in each of the negotiating stances.

**4. What, if any, concrete steps could the institutions take to inform the public in advance about trilogue meetings? Would it be sufficient a) to publicly announce only that such meetings will take place and when, or b) to publish further details of forthcoming meetings such as meeting agendas and a list of proposed participants?**

Announcing the dates of the meetings and making available the documents that will be discussed is the very least that ought to be done, together with publishing the outcome of the meeting. Since trilogues have become one of the key stages in the legislative process they should abide by the same transparency and communication rules than the other formal stages.

**5. Concerns have been expressed that detailed advance information about trilogue meetings could lead to greater pressure on the legislators and officials involved in the negotiations from lobbyists. Please give a brief opinion on this.**

The legislative procedure should be open to scrutiny by the citizens and all interested parties (be them lobbyist, researchers, public interest organisations, ..). It is then the responsibility of the EU institutions to ensure that the right filters are put in place in order to limit the pressure by the lobbying groups. The principle of transparency (arts. 1 TEU and 15 TFEU) cannot be systematically breached in the legislative negotiations because of the fear of lobbying pressures.

**6. In your opinion, should the initial position ("mandate") of all three institutions on a legislative file be made publicly available before trilogue negotiations commence? Briefly explain your reasons.**

The initial mandate of all three institutions should be made publicly available. European citizens and organisations deserve to know the position held by the three institutions on a certain file.

**7. What, if any, concrete measures could the institutions put in place to increase the visibility and user-accessibility of documents and information that they already make public?**

All documents and information should be publicly available on the website of the institutions. It is striking to see how the legislative procedure file of the European Parliament currently includes all the legislative files except for those of the trilogues.

According to the interinstitutional agreement on better law-making, “in order to facilitate traceability of the various steps in the legislative process, the three Institutions undertake to identify, by 31 December 2016, ways of further developing platforms and tools to that end, with a view to establish a dedicated joint database on the state of play of legislative files”. Trilogue documents should be included in this database.

**8. Do you consider that, in relation to transparency, a distinction should be made between "political trilogues" involving the political representatives of the institutions and technical meetings conducted by civil servants where no political decisions should be taken?**

Political and technical decisions to be made public.

**9. Please comment on other areas, if any, with potential for greater trilogue transparency. Please be as specific as possible.**