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From: [REDACTED]
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Subject: [EOWEB] Council consultation - OI/2/2017
Attachments: Contribution consultation - OI22017.docx

Mittente

Mittente [REDACTED]
A Council consultation - OI/2/2017
Data Tuesday, December 19, 2017 5:09:15 PM CET

I tuoi dati

Parte 1 - Informazioni contatto

Nome	[REDACTED]
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Lingua in cui si desidera ricevere la risposta en - English

Parte 2 - Dati

A Council consultation - OI/2/2017
Soggetto Council consultation - OI/2/2017
Contenuto Please find attached the contribution of the European Movement International to the **Council consultation - OI/2/2017**.

Council consultation - OI/2/2017

Contribution of the European Movement International

1. Once the European Commission makes a legislative proposal, it is discussed in one or more Council working parties. What useful information might be given at this stage to allow the public to see and to understand how the discussions develop?

Increasing transparency of the Council's preparatory bodies would enable the tracking of how EU legislation came into existence and therefore increase public trust.

An easily implemented measure would be to provide more detailed information about the activities of the working parties on the current web page of the Council's meeting calendar (<http://www.consilium.europa.eu/en/meetings/calendar/?filters=-2>). Most notably, the page should provide information on the legislative proposals being discussed. A link to a contact person responsible for the work should also be provided. Finally, a list of past meetings of all working parties, each associated with its legislative dossier, should be provided, and not for just some of them as it is currently the case.

2. In its reply to the Ombudsman, the Council describes the actions it is currently taking to make it easier to find documents on its website, such as improving its search form, giving access to documents via a calendar of meetings and developing the 'joint legislative database' provided for in the inter-institutional Agreement on Better law-making [3]. Are there other measures the Council could take to make legislative documents easier to find?

The Council's documents should be made public according to Regulation 1049/2001, by which documents denial should be the exception to the general rule of the widest possible access. We regret that such rule is currently reversed in the Council, with access being the exception rather than the norm. We therefore call for all Council's bodies to proactively and immediately publish its documents or otherwise providing justifications. Moreover, we regret how currently only some working parties produce minutes of their meetings. We would like to see all working parties produce and make publicly available the minutes of their meetings, and we extend this call to all Council's bodies.

As a further suggestion for the future, the Council could develop a system to track the legislative process, either by expanding the European Parliament's existing websites (the Legislative Train Schedule (<http://www.europarl.europa.eu/legislative-train/>) and the Legislative Observatory (<http://www.europarl.europa.eu/oeil/search/search.do?searchTab=y>) or by creating a new website in which each legislative dossier and each working group, committee and the COREPER would have their own page. From such pages, it should be clear which body takes care of which dossier, the name and contact information of a responsible person, a calendar of past and future meetings, and the documents produced and received by the bodies in relation to the dossiers.

Furthermore, all preparatory bodies of the EU Council could in the future web-stream their meetings, since issues discussed in such bodies affect the life of the citizens.

3. Please describe any difficulties you have faced in obtaining information or documents linked to discussions in Council preparatory bodies and any specific suggestions for improvement.

The page of the Council's register is not easy to navigate and documents are not easily found. A quick comparison between the Council's web register (<http://www.consilium.europa.eu/register/en/content/int?typ=ADV>) and that of the European Parliament (<http://www.europarl.europa.eu/RegistreWeb/search/typedoc.htm?codeTypeDocu=TPVD>) suffices to understand why. The Parliament's register has much more search entries and offers a more thorough search than the Council's register. The Council's search offers no possibility to search for all documents produced by a specific body of the Council or a specific Council configuration. We thus suggest that the website be updated in order to include further entries to facilitate searching. Detailed information concerning the agenda of preparatory bodies' meetings should be provided proactively on the page of the meeting calendars of the Council's preparatory bodies (<http://www.consilium.europa.eu/en/meetings/calendar/>).

Important measures should also be taken concerning trialogues. The closed-door negotiations between the Parliament and Council in the form of trialogues undermine the legitimacy of decision making on the European level, as well as citizens' trust. The European Council (and the European Parliament) should be required to publish a negotiation mandate in advance of debates on legislative proposals, as well as the agendas and participants. The minutes and all further documents should be made available after the session are completed, following the publication procedure of the Conciliation Committee. Documents exchanged between the institutions during the trialogue negotiations such as the "four-column tables" should be made publicly available, e.g. on a central 'trialogue' webpage within a matter of days after the process has been concluded, and before the presentation of the text to the Parliament's plenary. Furthermore, impact assessments on the final agreed legislation adopted through trialogues should be carried out, as their absence damages the quality and legitimacy of legislation.

4. Various types of documents can be produced and circulated in Council preparatory bodies (outcomes of proceedings, Presidency compromises, progress reports, etc.) In your opinion, are certain documents more useful than others in informing the public about ongoing discussions? Please explain.

We believe that all types of documents can be relevant for the public, and thus access to all documents should in general be guaranteed, pursuant to Regulation 1049/2001.

We insist, particularly, that the trialogue negotiations should be made more transparent and that the related documents, i.e. the Council's negotiating mandate, documents exchanged between the institutions, such as four-column documents, documents containing information on the proposed participants, meeting timetables and updated impact assessments should be made public.

Moreover, although experience shows how some national delegations are reluctant to reveal their positions during negotiations in the Council's preparatory bodies, we invite the Member States to revise their positions on the subject and to consider disclosing information about their national delegations' positions during the meetings in the Council's preparatory bodies.

5. Do you ever consult the legislative file the Council publishes after the legislative act has been adopted?

6. Do you consider that different transparency requirements should apply between discussions in working parties and discussions in Coreper? Please give brief reasons for your answer.

The European Movement believes that discussions in all Council's preparatory bodies are equally important. The distinction between political and technical should not correspond to a distinction between what is important, and thus liable to be made public, and what is not important, and thus not liable to be made public. Indeed, although it is common view that working groups and committees mainly deal with technical issues, while they refer matters of political importance to the COREPER and the Council, research show how technical issues can instead be politically salient and how the distinction between technical and political is not so clear-cut. It thus follows that the same transparency requirements should apply to all preparatory bodies.

7. While discussions are ongoing, documents which bear the distribution marking "LIMITE" are not disclosed to the public without prior authorization. In your opinion, what additional steps could be taken to further regulate and harmonize the use of the "LIMITE" marking concerning legislative documents?

The system of documents classification should be revised in order to set up clear rules and criteria to classify documents according to their level of secrecy. The Council's officials currently label documents as LIMITE, RESTREINT, CONFIDENTIEL, etc. based on their subjective opinion instead of clear and valid-for-all instructions. Rules on how to classify documents should instead be harmonized, by setting clear indications on how to label documents. Indications should be set up pursuant to Regulation 1049/2001, and they should thus aim at avoiding any misuse/abuse of the LIMITE label, to make sure that denial to access to documents represents the exception rather than the norm.

8. Bearing in mind that delegations' positions may evolve during the negotiations and that the Council must protect the effectiveness of its decision-making process, to what extent do you believe positions expressed by national delegations during negotiations in Council working parties/Coreper should be recorded? How important would it be for you to find out the position of the national delegation?

Knowing the positions of national delegations would highly increase the level of accountability of the EU Institutions and of citizens' national representatives, and it would be a means to ensure coherence between positions taken publicly by the Member States and the positions they take at closed doors in the Council arena. Past experience shows how Member States' positions on one issue change according to whether they express them in a public context or in a private one. Such lack of coherence diminishes citizens' trust and provides fertile ground for EU-skepticism. We believe that citizens have a right to know which positions their national delegations defend during negotiations, bearing in mind that there is no negotiation without compromise. At the

same time, we acknowledge the need of national delegations to preserve a climate of confidence during negotiations and prevent external pressures from compromising the decision-making process.

We ultimately believe that access to national delegations' positions should be regulated based on a fair balance between transparency and efficiency, and according to the principles established by the CJEU's case-law.