

Transparency International EU

The global coalition against corruption

After Amsterdam: how can we increase transparency in the Council?

Yannik Bendel · Monday, July 4th, 2016

Post-Brexit, European political and thought leaders are putting on pressure to reform the EU and how it is run. This is in order to salvage its reputation among its citizens. Out of the cacophony of criticism, the more constructive ideas for reform focus on the long-perceived democratic deficit and how to reconnect the EU institutions again with its citizens.

Already back in 2014, when the Juncker Commission took office, it announced ten priorities of action, one of which would focus on making the EU more accountable and, in turn, more democratic. The big slogan back then was to both “do different things and do things differently”. The European Commission acknowledged that more transparency in the legislative process would allow citizens to understand how decisions and laws are made. Likewise, the establishment of a mandatory lobby register was one of the core elements to curb undue influence, to provide more transparency in EU lobbying and to gain back public trust.



Amsterdam, January 7th 2016.

Dutch Prime Minister Mark Rutte and President of the EU Commission Jean-Claude Juncker.

Photograph: Dutch Government/Valerie Kuypers

The good intent of the European Commission aside, one should not forget that it is the Member States in the Council which, to a large extent, decide the direction of the Union. A good indicator of what Member States think of the idea of a Union of Democratic Change is the progress made in this regard during the recently-completed Dutch Presidency – a government traditionally very open-minded to more transparency.

Dutch Presidency: Towards a Union of Democratic Change?

When the Dutch took over the rotating Council presidency on 1 January 2016 and published a [working programme](#) explicitly striving to “work to achieve greater and active **transparency in European decision-making**”, it looked to some like the long awaited push to finally break the deadlock at the Council and bring transparency issues back on the agenda. “Not a transparency revolution”, but “pragmatic, practical, focused and necessary steps,” the Netherlands’ Presidency [promised](#) at the start of their tenure.

Even though the presidency of the Council has some clout to set the agenda in the Council, Transparency International EU remained rather **cautious** from the beginning. In the past, only a **small group** of Member States has come out in favour of transparency reform, opposing a long-standing majority of influential Member States blocking any such attempts.

The recent **General Affairs Council** on 24 June 2016 **summed up** most of the progress achieved in the last six months. The Council discussed:

- Creating of a shared one-stop-shop IT portal compiling information and documents relevant to the legislative process from the different EU institutions. This would help to make access to information easier and the legislative process more traceable.
- Setting up a joint database and a register of delegated acts.
- Increasing the transparency of trilogues – the informal process for getting agreement between the European Commission, Parliament and Council on legislation.

More controversial topics like a strong framework for the Council to guide the handling of access to information requests or the role of the Council participating in the EU Transparency Register seemed to have fallen off the agenda.

A small success for the Dutch Presidency, but overall a missed opportunity for the Council

Against the politically difficult background, one could consider these elements as small, but important steps in the right direction, as indeed the **European Ombudsman** has done.

Apart from the role of the Dutch Presidency, the more difficult but decisive question is how to judge this progress in the context of the overall state of the European Union. It is very difficult to sell these steps as a success to the people in the streets who are unsatisfied with the general direction of the EU, lamenting the democratic deficit of the EU or criticising corporate dominance in policy-making. If the moderates in the political spectrum cannot answer these worries, voters turn to populist candidates who promise to bring about change.



The promise to make the EU more democratic should be put into practice

Transparency International EU has repeatedly outlined that the Council **lacks** the kind of basic transparency which would allow citizens, civil society organisations, or other stakeholders to understand how decisions are taken and to make it possible to hold their representatives to account. It is time for the Council to catch up with the standard practice of other EU Institutions, especially with the European Parliament, the other co-legislator.

The experience of the European Parliament, which successfully operates under stronger transparency provisions, has proven the feasibility of many of Transparency International EU's demands. Most of the meetings in preparatory stages at committee level are web-streamed, and detailed minutes and voting records allow the public to see which Member of Parliament advocates which policies. The Council would, therefore, not be venturing into uncharted territory; it would, on the contrary, simply be following what other institutions have been doing for years.

Concrete next steps

The Slovak presidency, now chairing the Council meetings, has the daunting task to push towards some of these reforms. But In their current [working programme](#) there is no explicit mentioning of anything along these lines.

Below is a list of practical proposals, where Transparency International EU sees the possibility to make some positive progress:

(1) Increase the transparency of decision-making process by

- Ensuring a consistent application of current transparency requirements **at each stage of the decision-making procedure (working group, Coreper and Council)** and **across different Council configurations**;
- Publishing **more detailed results/minutes** at each stage of the decision-making procedure (working group, Coreper and Council);
- Providing full **information on Member State positions** from each level of the Council after negotiations/voting or decision-making;
- Making trilogues meetings more transparent by **publishing detailed minutes of the meetings** and the related **four column documents containing Council position** in a timely fashion online;
- Putting in place a **clear assessment framework for limité documents** restricting the application of the exception to extraordinary cases.

(2) Join the Inter-Institutional Agreement to become a full member of the EU Transparency Register

- **Unregistered lobbyists should not be able to get meetings**. Permanent Representations of member states should also pledge to no longer meet with unregistered lobbyist as well as the rotating presidency– both in Brussels and “at home”.
- To allow the public to monitor that the above principles are respected, the Council should **publish meetings with lobbyists** in a similar fashion to the European Commission.
- The Council should **publish all written input by lobbyists** in a central location to allow the establishment of an EU Legislative Footprint.

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