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Trialogues: What goes on behind closed doors?

Alex Johnson · Tuesday, September 15th, 2015

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As is frequently the case when political machines evolve, informal practices become conventions and then formal procedures. In the British Parliament when a new Speaker is elected he or she is physically [dragged](#) to the Chair by other MPs. The EU is a much younger polity than the UK, and so we won't be seeing Martin Schulz being dragged across the Hemicycle anytime soon. But the EU is evolving some of its own customs in law-making which can give transparency campaigners cause for concern.

Following the Lisbon treaty and the introduction of 'ordinary legislative procedure' for the bulk of EU law a new convention has developed to speed up the legislative process. The 'trialogue' process for getting agreement between the European Commission, Parliament and Council on legislation is a series of informal working meetings of the three institutions whereby they attempt to come to an agreed position.

Originally a short-cut for overworked MEPs and officials overwhelmed by co-decision files, it has become the norm for thrashing out agreements on most EU legislation. During the last legislative term [there were](#) 1,500 trialogue meetings.

As we pointed out in our [EU Integrity Study](#), the meetings are a major transparency black-hole where large concessions are won and lost with very little oversight and without public disclosure. In the vast majority of cases, Parliament's plenary vote serves only to rubber stamp the deals secured by a handful of negotiators from each institution, sidelining 99% of MEPs in the process. Even the Parliament's own internal strategy [document](#) recognises that transparency has been traded off against efficiency and there is need for reform.

So what can the EU do about this worrying lack of transparency? First off, the institutions should commit to removing blind-spots in the decision-making process. The Commission, Council and Parliament should publish all documents from each step in the process of drafting legislation, including trialogue negotiations. This includes documents outlining the negotiating positions of the three EU institutions or 'four column documents', where the three positions of the institutions are set out across three columns and the final column is left for the compromise text.

Secondly the systematic and timely public reporting from these steps should be mandatory. As we [highlighted](#) recently, a significant amount of EU documents are published but are not easily accessible. The public reporting of trialogue documents must be searchable and in an accessible

format.

“There are no minutes that come out afterwards. It’s never quite clear when the meetings are on or how the decision making is carried out,” – [Emily O'Reilly](#), EU Ombudsman

Lobbying is big business here in Brussels. There are more than 10,000 registered lobbyists on the [EU Transparency Register](#). Much of their work occurs around triad negotiations, given the prominence of triad negotiations in the law-making process. But without access to four-column documents and no [legislative footprint](#) (a comprehensive public record of lobbyists' influence on a piece of legislation) there is no way of telling what elements of a law have been influenced by outside interests.

As a sign that there is need for reform, the EU Ombudsman has [launched](#) an investigation into the triad negotiations process, citing concerns over a lack of transparency. The Ombudsman has requested information from the three institutions about their disclosure policies around triad documents. This includes details of meetings, documents relating to ongoing triad negotiations, minutes or notes drawn up after such meetings, as well as lists of participants. She is expecting a reply by 30th September 2015.

We are awaiting the institutions' response to the documents she has requested. We hope that her efforts will encourage the institutions to open up this secretive process so that we can know which institutions and individuals make what changes in the drafting of EU laws.

The upcoming Inter-Institutional Agreement on [Better Regulation](#) is a good opportunity to begin opening up the legislative process to scrutiny. After all, consultation, evaluation and transparency is what better regulation should be about.

Campaigners have fought for decades to make the Parliament open and accountable to citizens. As a result the Parliament holds relatively high standards in transparency, with the web-streaming and minutes of meetings available online. However, in the name of efficiency, this progress is being lost through the growing use of triad negotiations. In a modern democracy, there is no reason why the decision-making process cannot be both efficient and transparent.

Some conventions can just be a bit of fun, such as dragging the Speaker to the Chair in the UK Parliament. But others can undermine the accountability of the democratic process. The institutions must not drag their feet on triad negotiations and should open the door to transparency.

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