



House of Commons
European Scrutiny Committee

**Transparency of
decision-making in the
Council of the European
Union: Government
Response to the
Committee's Second
Report**

First Special Report of Session 2016–17

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European Scrutiny Committee

The European Scrutiny Committee is appointed under Standing Order No. 143 to examine European Union documents.

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Committee reports are published on the [Committee's website](#) and in print by Order of the House. Evidence relating to this report is published on the [inquiry publications page](#) of the Committee's website.

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First Special Report

On 26 May 2016, the European Scrutiny Committee published its Second Report of Session 2016–17, *Transparency of decision making in the Council of the EU*, as House of Commons Paper No. 128. The European Commission and the Government have both now responded, through letters from Frans Timmermans, the First Vice-President of the Commission, and David Davis MP, Secretary of State for Exiting the European Union. We publish those letters as Appendices to this Special Report.

Appendix 1

Letter from Frans Timmermans, First Vice-President of the European Commission

Thank you for your letter dated 26 May 2016 in which you forward a copy of your Committee's report on the transparency of decision-making in the Council of the European Union.

The Commission takes note of the reflections in the report on the principle of transparency and its application to decision-making within the Council, as well of its implications for the role of the UK Government and UK Parliament. The Commission agrees with the conclusion that the high level commitment to transparency set out in the new Inter-institutional Agreement on Better Law-Making of 13 April 2016 will be an opportunity to address outstanding issues regarding transparency within the Council and indeed also the European Parliament, making it easier for Parliaments and for citizens to monitor and scrutinise their work.

Following up on the Inter-institutional Agreement, the implementation of the key new provisions regarding transparency is currently being discussed between the European Parliament, the Council and the Commission. The recommendations set out in the Report will certainly be of benefit for this process. Some of the steps being considered would already go in the direction set out in the Report.

As you note, the Report addresses specific issues arising in connection with the work of the Council and its preparatory bodies and which fall under the responsibility of the latter. At the same time the Commission, as a signatory to the Inter-institutional Agreement, may contribute in various ways to facilitate the implementation of transparency elements in the legislative procedure and the working methods of the co-legislators.

The European Parliament and Council are examining how to increase the transparency of trilogue negotiations, balancing the requirement for greater publicity with the desire to maintain a degree of confidentiality needed for conducting effective negotiations. The Commission participates in trilogues, but is not in charge of the conduct of the procedure. In this perspective, the Commission looks forward to the positions that the European Parliament and the Council will take on the way forward in this matter and will support, as appropriate, any solutions that help to increase access for citizens to EU decision-making.

The Commission is also committed to further increasing transparency of law-making by contributing to the establishment of an inter-institutional database of the EU institutions on the status of legislative files. The database will be a concrete way to increase access for citizens to information on the pre-decision stage in EU legislative processes and to deliver transparency in practice.

To that effect, the Commission has launched a mapping exercise to document the numerous data exchanges that take place between the EU institutions during the legislative process. This mapping, which we are doing in cooperation with the European Parliament and the Council, of current practices and technologies used will help to define a common vision of measures to streamline the administrative and technical features for data exchanges between the EU institutions. The results of this exercise will be ready by the end of the year. They will provide an informed basis to design and implement in a cost-effective way a well-functioning and user-friendly joint inter-institutional database.

I would also like to mention that Commission is working together with the European Parliament and the Council on technical specifications and on the identification of the resources necessary to set up a joint register for delegated acts by the end of 2017. The purpose of the registry will be to enhance transparency, facilitate planning and enable traceability of the different steps in the lifecycle of a delegated act.

Furthermore, as of 1 July 2016 the Commission has published draft delegated and implementing acts for public feedback for a period of four weeks. Stakeholders will now be able to give their views on delegated and implementing acts, before they are adopted by the Commission.

The Commission remains committed to improving law-making in the EU, with transparency being one of the leading principles, and will continue to work with the European Parliament and the Council to achieve this objective in practice.

Yours sincerely,

Frans Timmermans

Appendix 2

Letter from Rt Hon David Davis, Secretary of State for Exiting the European Union

Thank you for your report published in May (“Transparency of decision-making in the Council of the EU”, HC 128). As you know, the Foreign and Commonwealth Office has handed overall responsibility for policy on EU institutional matters to my Department. The FCO also set out the Government’s overall approach to these issues in its written evidence to your inquiry, which I hope you found helpful.

Your report is an important contribution to the debate on the balance between transparency of EU decision-making and the need for sensitive negotiation in private. The Government has supported increasing transparency in the EU legislative process: like you, we see the adoption in May 2016 of the Inter-Institutional Agreement on better law-making as progress in this area, and while we remain a Member State we will seek to ensure that this agreement is fully implemented.

The Government notes Parliament’s concerns about legislative acts adopted by consensus and the Committee’s view that transparency is not simply a matter of making information available, but of ensuring it is usable. The Government agrees with the Committee on the role of parliamentary scrutiny in dealing with ongoing EU business. National parliaments make a valuable contribution here.

The Government also notes the EU Transparency Ombudsman report, published in July 2016, which makes a number of recommendations aimed at improving the transparency of EU decision-making, and specifically the trilogue process. The Ombudsman asked for an update by 15 December 2016 on any action taken by the EU institutions on those recommendations. The Council is currently preparing its response, which we expect to be adopted soon. The Government will monitor any action here with interest and will keep the committee updated.

When Minister of State for Exiting the European Union David Jones appeared before the European Scrutiny Committee on 26 October, you raised the issue of decision making in Council and Coreper in the context of the UK vote to leave the EU. UKRep always negotiates within the terms of instructions from Ministers. A new Commission proposal will normally first be presented to the relevant Council of Ministers. The UK negotiating position is agreed with Ministers at the start of negotiations through the European Affairs Cabinet Committee (EAC) clearance process and is re-visited should a negotiating mandate need reconsideration.

At all times during Working Groups and Coreper, UKRep officials, including the Permanent Representative and Deputy Permanent Representative, operate within the bounds of parliamentary scrutiny; the terms of the EAC clearance letter and; instructions from the lead Whitehall department or agency (consulting other departments and the Devolved Administrations where necessary). In cases where items are held under parliamentary scrutiny, a scrutiny reserve is always in place, unless a Minister chooses to override scrutiny.

No file will reach a conclusion, or receive political agreement from the UK, without a formal Council decision by Ministers, where of course they are fully accountable to Parliament through the Scrutiny Reserve Resolutions of the scrutiny committees. All General Approaches—with the political weight that involves, as compared with Coreper—will be agreed by Council.

I would like to reiterate my thanks for the Committee's report.

Rt Hon David Davis MP

Secretary Of State For Exiting The European Union