



Council of the
European Union

077428/EU XXVI. GP
Eingelangt am 09/10/19

Brussels, 9 October 2019
(OR. en)

12876/19

API 140
INF 270
JUR 573
INST 301

NOTE

From: Presidency
To: Delegations

Subject: Presidency Report on the seminar on the future of EU transparency
- 24 September 2019

Delegations will find attached for information, the Presidency Report on the seminar on the future of EU transparency which took place on 24 September 2019.

EU2019.FI

Seminar on the future of EU transparency

24 September 2019, Brussels

Report by the Presidency

The Finnish Presidency organised an open seminar on the future of EU transparency on 24 September together with the Faculty of Law of the University of Helsinki, hosted by the Council of the EU. This report by the Presidency outlines the context for the seminar and summarises the issues discussed.

Context

The principle of transparency is enshrined in the Treaties and the right of access to documents is recognised as a fundamental right in the Charter of Fundamental Rights. Transparency and open communication play a significant role in bringing the EU closer to citizens and in making it more understandable. Additionally, they increase trust in the EU and the legitimacy and accountability of the EU, and they are an effective means to combat disinformation.

The Strategic Agenda adopted by the European Council for 2019–2024 emphasises that EU institutions will respect the principles of democracy, rule of law, transparency, and equality between citizens and between Member States. Moreover, the agenda underlines the importance of engaging with citizens, civil society and social partners, and regional and local actors. Furthermore, the Strategic Agenda states that each institution should revisit its working methods and reflect on the best way to fulfil its role under the Treaties.

The European Parliament elections took place in May 2019, and the new Commission will begin its work later this year. This institutional transition phase offers a timely chance to discuss the need to develop EU transparency in the future. The seminar aimed to provide a platform for inclusive discussions on the future of EU transparency with experts from EU institutions and agencies, civil society and academia.

Main issues

The seminar was divided into three panels. The first panel focused on the **broader context of transparency**. In the presentations by the Council General Secretariat and representatives of academia, the media and civil society, speakers noted the growing interest of citizens in EU affairs and in participation in decision-making. The changing technological environment provoked questions on the definition of a document in a digitalised administration, on the growing phenomenon of disinformation and on the use of algorithmic decision-making in administration. The importance of the role of the media in explaining and facilitating understanding of EU decisions was emphasised.

On legislative transparency, one of the pertinent questions raised was how to protect the institutions' space to think and simultaneously facilitate participation. It was also argued that while legislative transparency is important, non-legislative transparency should not be neglected. The difference between proactive transparency and reactive transparency was also discussed. It was noted that the operational environment has changed but the regulatory framework has not been updated. The designation of a Vice-President for values and transparency in the new Commission was seen as a positive development and as a sign of the growing importance of transparency.

In the afternoon, the discussion focused on **Regulation 1049/2001**, which regulates the right of public access to documents of the EU institutions. The second panel consisted of speakers from the EU institutions and the European Food Safety Authority. The speakers talked about practices and current developments as regards transparency and access to documents in each institution. The relationship between data protection and transparency was raised, as was the adaptation of the institutions' practices to the new data protection rules. New, user-friendly IT tools to facilitate information management are being developed in some of the institutions.

Trilogue documents were highlighted as a specific category warranting attention after the judgment from the General Court of the European Union in the case T-540/15, *De Capitani v Parliament*. The need to address the definition of a document was also mentioned in the context of a modern world where new digital tools and communication technologies are used daily by the institutions. An underlying theme in the institutions' handling of requests for access to documents was the question of resources. On legislative transparency, the *sui generis* nature of the EU as a legislative decision-maker was raised as a factor to be

taken into consideration when assessing the level of transparency required from the EU legislative process.

Parallel to Regulation 1049/2001 on public access to documents, sectoral legislation has been developed and specific rules on access to documents in certain policy areas are relevant for agencies in their work. For example, some innovative solutions building on proactive transparency have recently been adopted in sectoral legislation concerning the European Food Safety Authority.

The third panel brought together civil society actors and the European Ombudsman's Office to discuss access to documents from the perspective of those requesting **access to information**. The panel stressed the importance of enabling timely participation in the decision-making process. In addition, the importance of good and user-friendly registers for documents was emphasised, as they help to avoid excessive barriers to accessing information. Many speakers mentioned the need to develop an inter-institutional legislative portal. Attention was drawn to the application of the Regulation on access to documents and to the importance of proactive transparency, while doubts were raised about the need to revise the Regulation. The importance of balancing transparency and privacy was raised, given that new data protection rules are now applicable. It was also argued that the high number of access to documents requests reflected the interest of citizens in the EU and that in these times, transparency also served the purpose of defending the overall significance of the European project.

Outcome of the seminar

EU openness has developed significantly, but work remains to be done. EU transparency should be developed to reflect the changing landscape of our decision-making culture and structure as well as the demands of an open, efficient and independent administration in this era of digitalisation. Member States, EU institutions and the civil society must work together if we are to achieve lasting results. The seminar provided impetus for these discussions.

The seminar was web streamed and the recording can be found at:

<https://video.consilium.europa.eu/en/webcast/c1906989-3f74-4004-b301-adba2deedc2b>

The seminar programme can be found at:

<https://eu2019.fi/en/events/2019-09-24/seminar-on-the-future-of-eu-transparency>