

Legislative transparency - Questionnaire

This questionnaire comes as a follow-up to the options paper distributed to delegations prior to the 11 October Antici +1 meeting and to the case study distributed prior to the 4 December meeting.

It should help the GSC to have a better understanding of MS views on accessibility of the various documents produced during the legislative process.

Pending agreement on a new approach, in part or in whole, the GSC will continue to apply existing legislation including applicable case-law, as well as its internal guidelines, both in the production of documents and the handling of requests for access to documents.

The GSC will also maintain the status quo for documents relating to a legislative file, other than those specifically covered by the questions below.

This questionnaire, as well as the whole exercise, is without prejudice to the rules on producing and handling of EUCI as well as to technical or legal developments. The GSC may come back to the Permanent Representatives Committee, whenever required by such developments.

Member states are kindly requested to confirm (or not) the following affirmations:

Working party examination

1) For documents reflecting discussions at the level of the working party on a legislative file, the status quo should continue to apply. It is for the GSC to apply existing rules and guidelines.

In practice, this would mean that the GSC would continue to assess, for each document, whether it should be issued as ST or WK, and whether or not it should bear the LIMITE marking. For example, a document with compromise proposals which identifies positions of Member States would be issued as ST LIMITE; contributions by other institutions and bodies which are sent as public documents by their authors would be issued as public documents; non-papers presented by a delegation would be issued as WK LIMITE etc.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u>	

Progress reports to Coreper

2) As not all Progress Reports need to be addressed to Council, ***Progress Reports addressed to COREPER should become public after examination in COREPER provided no exception against their release is raised.***

In practice, this would entail submitting a LIMITE document to Coreper and the issuing of a COR removing the LIMITE marking immediately after the document has been examined by Coreper (and provided the content of the document is not covered by a specific exception that would argue against release), or issuing a revised (REV) public document including changes agreed in Coreper. In cases where the progress report would also be addressed to the Council, this entails no change, as the document would then become public once on the Council agenda.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u>	

Mandates

3a) **The initial Council position which serves as a basis for negotiations with the European Parliament, should, as far as possible and practical, be adopted as a "General Approach" by the Council and thus it should be a public document.**

In practice, for those files for which currently a mandate is agreed in Coreper on the basis of a LIMITE document, the formalisation as General Approach would then take place by inscribing the same text in a public document as A item at the next available Council.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u> 	

3b) **In exceptional circumstances where constraints related to the timing of Council meetings do not allow use to be made of the option proposed in the previous question, or in case of a negative answer to the previous question, initial negotiating mandates agreed in COREPER become public after consideration by Coreper provided no specific objection to publication was raised in Coreper.**

In practice, this would entail submitting a LIMITE document to Coreper and issuing of a COR removing the LIMITE marking immediately after the agreement is reached in COREPER and provided no objection was raised.. The constraints mentioned could concern for instance the timing of the next available Council meeting or logistical constraints such as the timing required for the production of language versions.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u> 	

3c) **For revised mandates, as a general rule, these should be agreed in COREPER and they should become public after consideration by COREPER provided no specific objection to publication was raised in COREPER.**

In practice, this would entail submitting a LIMITE document to Coreper and issuing of a COR removing the LIMITE marking immediately after the agreement is reached in COREPER and provided no objection was raised.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u> 	

Initial and final trilogues

4a) The 4-column-table representing the basis for the initial trilogue, as a general rule, should be issued as a public ST document.

The only part of the table which could potentially not yet be public is the Council's position, should this one be a Coreper mandate that still bears the LIMITE marking (e.g. following objections raised as indicated under question 3b above). Distributing this initial 4-column-table as a public ST document could be done automatically by the GSC (provided that no objection was raised as indicated under question 3b above).

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u>	

4b) The text of the provisional agreement (outcome of the final trilogue) should be made public after consideration by COREPER and provided no specific objection to publication was raised in COREPER; the Offer Letter from the COREPER Chair to the EP Committee Chair should be made public once sent.

This would mean that in relation to (i), after the Coreper meeting and in relation to (ii) after the letter is sent, the LIMITE marking would be removed. The effects are in fact quite small, since the Offer Letter is in essence procedural, and the provisional agreement will in any case be made public by the corresponding EP committee shortly after.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u>	

Intermediate trilogues

5) The GSC should try to identify a common approach with the services of the other Institutions regarding the key moments during the trilogue process at which the 4-column tables could be made public.

The GSC would aim to report back to delegations on the progress of such discussions in spring 2019.

<input type="checkbox"/> YES	<input type="checkbox"/> NO
<u>COMMENTS:</u>	