Evidence of agencies relocation vote 'will be destroyed'

The decision for the relocation of the two London-based EU agencies will be taken at the so-called general affairs council (Photo: Council of the European Union)

By PETER TEFFER
BRUSSELS, 9. NOV, 17:57

There will be no permanent record of how EU member states voted in the relocation process of two London-based EU agencies, it emerged on Thursday (9 November).

EU affairs ministers will cast their votes on 20 November to determine which of the 19 candidate cities will host the European Medicines Agency (EMA) after Brexit, and which of the eight cities the European Banking Authority (EBA).

The votes, in a maximum of three rounds, will be written down on physical pieces of paper, a source close to the Council presidency told journalists at a briefing on Thursday.

"The ballots ... will be destroyed after the voting," the official said.

The source later told EUobserver that this decision to destroy the ballots was made by the Estonian presidency and the secretariat of the Council.
It followed a decision on the procedure at an EU summit in June, when EU leaders said the votes should be cast "by secret ballot".

The presidency source said that the final results will be made public at a press conference the same day.

But the decision to destroy the ballots immediately after the vote raises some questions.

By destroying the ballots, the Council is making it impossible for citizens to ever try to have them published through the EU’s access to documents regulation.

The regulation only applies to existing documents.

In fact, it is unclear whether EU institutions are actually allowed to destroy documents, said the pro-transparency group Access Info Europe.

"We have checked with several legal experts, but we have not managed to get real clarity on the legality of the decision to destroy the ballots," said Helen Darbishire, executive director of the group.

It would have been easier to determine if the vote was part of a legislative process, she said.

But the vote is a matter of the Council only.

Only after the vote is the European Commission expected to table a formal proposal to amend the regulations that govern the two agencies.

But Darbishire added that "even if it strictly were legal" for the Council to destroy the ballots, "it is not the kind of open decision making that we expect in a modern democracy".

"As far as we are aware, there is no precedent for this kind of practice in the Council, and the fact that it’s being introduced is a matter of serious concern," she added.

The voting process itself is somewhat complicated.

In the first round, member states will be able to cast six votes. They will have to give one vote worth three points, one vote worth two points, and one worth one point.

If a candidate city receives 14 three-point votes in the first round, this is the winner.

It is possible that a candidate receives the most points thanks to the two-point and one-point votes, but still loses to a candidate that has 14 three-point votes – similar to how in some democracies there is a difference between winning the popular vote and winning the presidency.

So in the scenario of a member state claiming to have won such a ‘popular vote’ but not being selected, there will be no way for press or public to determine if that statement is correct.

"EU institutions generally have broad powers to organise their own...
records, including document retention periods," said a spokeswoman for the European Ombudsman.

"From a good administration perspective, however, it is important that records of decisions that are of public interest are kept," she added.

Olivier Hoedeman, of the transparency lobby group Corporate Europe Observatory, told EUobserver he was also not able to say if the practice of destroying the ballot papers would be illegal.

But he noted that it is "clearly anti-transparent and undemocratic because it implies the intention to avoid being held accountable for decisions made".

This article was updated on 9 November, 22:42, to add the comments from the European Ombudsman.
INTERVIEW

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29. SEP, 07:22

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ANALYSIS

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10. NOV, 09:03

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31. OCT, 09:20

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