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October 19, 2013

European Court of Justice rules in favour of greater transparency of the Council of the EU

Madrid/Luxembourg, 17 October 2013 — In a case brought by [Access Info Europe](#), the European Court of Justice today rejected arguments by the Council of the European Union that it should be able to keep secret the identities of Member States making proposals in the context of negotiations on future EU legislation.

This is [the final ruling](#) – by the highest court of the EU – in an important legal battle for greater transparency of the legislative process in Brussels in line with the EU treaties which require the European Parliament and the Council to “ensure publication of the documents relating to the legislative procedures”. The Council of the EU had fought to defend its policy of releasing legislative drafting documents with the names of Member States tabling amendments blacked out. Access Info Europe won access to the document, which it first requested in 2008, before the [General Court in March 2011](#) but the Council appealed, joined by the Czech Republic, France, Greece, Spain and the UK. The European Parliament, arguing in favour of openness of the legislative process, joined the case in an historic move to support Access Info Europe in its quest for wider access to documents. The European Court of Justice today rejected the Council’s arguments that it should be able to withhold information from the public in order to preserve the “effectiveness of the legislative decision-making process”. The ECJ confirmed that “the mere fact that the request for disclosure was made at a very early stage in the legislative process was not sufficient to allow the application of that exception”. “This is a significant

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victory for transparency and participatory democracy,” commented Helen Darbishire, Executive Director of Access Info Europe. “If the Council applies this ruling to all similar documents, this would finally provide a similar level of transparency at the EU level as one would normally find in national legislative processes.” This ruling means that members of the public at the national level will find it easier to know what is going on in Brussels, and will make it easier for national parliaments to follow and scrutinise the EU legislative process, and in particular the positions taken by delegations of Member States. Onno Brouwer, the lawyer representing Access Info Europe, said “A normative choice has been made in the EU Treaty for more transparency and legitimacy of the EU decision making. Making the EU legislative process more transparent is crucial to enhance the acceptance by the EU citizens of EU legislation that binds them, and to allow for accountability of Member State positions taken in that context. One often forgets that Member States are key actors in the EU legislative process”. Helen Darbishire added: “We call on the Council to respect this ruling and to go a step further by henceforth proactively publishing documents containing legislative drafting positions of Member States on the Council’s public register as soon as they are created, as this will allow the public to follow the decision making process.”

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