

OPINION

# Let the council have their private conversations, but don't make law that way

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BY RICHARD LAMING

The case being fought out in the European Court of Justice over the transparency of proceedings in Council working groups shines a spotlight on what remains of the democratic deficit in Brussels.

It has long been a complaint that the Council of Ministers, unlike the European Parliament, meets and legislates in secret. The Lisbon treaty enshrined the obligation on the Council to meet in public, but argument rages over what that obligation really means. Should it be just that the final vote on a new piece of law takes place in public, or should there be complete transparency for the whole legislative process? The heroic campaigners of Access Info say that it should be the latter, and they are certainly right.



"Officials can continue to have their private conversations, as MEPs do, but they should not confuse their private conversations with the important business of making the law" (CE)

Officials from the member states explain that having to conduct all their business in public would prevent them from having full and frank discussions about political issues. But this is nonsense.

Under a regime of transparency, civil servants can continue to discuss freely their views over coffee. What they won't be able to do is to change the law as a result.

If they want to try and change the law, they will have to go back to the meeting room where they must put their opinions on the record and to the vote. Those member state representatives who agree with a proposed change will have to make their agreement public, as will those who oppose it.

There would as a result be for each law a comprehensive paper trail, starting from the proposal by the Commission (for which the Commission can be held accountable), via amendments in the Council (for each of which the relevant member states can be identified) and amendments in the European Parliament (MEPs, ditto), leading ultimately to clarity about who is responsible for what. Without clarity, there is only irresponsibility.

If this seems intrusive, remember that the members of Council working

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A coffee with MEP Ines Ayala Sender about cross border driving offences

Drivers caught for offences outside their own country will soon have to face the music. According to new legislation approved this week, those caught speeding, crashing red lights or drink-driving in

groups are not there in a personal capacity. They are there on behalf of their national governments, who in turn are in office on behalf of their voters. As a citizen and a taxpayer in the UK, it is my money and my voice that the British members of Council working groups are representing. Why should I not be allowed to know how my money is being spent and what words my voice is saying?

And we are talking about large sums of money. An analysis of the reform of the EU sugar regime in the autumn of 2005 found that official decisions at the working group stage cost hundreds of millions of euros. ("Openness and secrecy in the EU institutions: lessons from the EU sugar regime", Federal Trust European Policy Brief number 28, June 2006, <http://bit.ly/jh6qHM>) Public money should not be spent in this secretive way.

The conceptual leap required here is that the workings of the Council should not be thought of as discussions among diplomats but as the proceedings of the second chamber in the legislative process. Citizens are entitled to expect the same standards of accountability in the Council as they get in the Parliament.

Officials can continue to have their private conversations, as MEPs do, but they should not confuse their private conversations with the important business of making the law.

*The writer is chair of Federal Union [www.federalunion.org.uk](http://www.federalunion.org.uk)*

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another member state will be held liable. Spanish Socialist MEP Ines Ayala Sender guided the legislation through the European Parliament.

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