Guidelines on dealing with LIMITE documents during the Netherlands Presidency 2016

The aim of the Netherlands Presidency is to lift legislative documents' LIMITE status as soon as possible and to make such documents available to the public. The specific aim is to give public access to legislative documents immediately after discussion in the Committee of Permanent Representatives (Coreper). At the moment, it is not precisely clear when such documents are made public.

Where possible, earlier disclosure of legislative documents, for instance at Working Party level, is encouraged. However for the feasibility of these guidelines, the focus is on the publication of legislative documents after Coreper.

With this in mind, the following guidelines have been drafted by the Netherlands Presidency for chairs and co-chairs of Council working parties. Of course, these guidelines can only be implemented in close cooperation with the General Secretariat of the Council (GSC). When drafting the guidelines the Rules of Procedure of the Council were given due account.

Guidelines

- To promote transparency and ensure the widest possible access to documents, as laid down in article 15, paragraph 3 of the TFEU and Regulation (EC) No. 1049/2001, the following principle applies during the Netherlands Presidency: legislative LIMITE documents will be made accessible to the public immediately after having been dealt with in Coreper I or II if they are to be submitted to the Council.
- If following discussion in Coreper I or II the legislative documents are adjusted, the revised version will be made public as soon as possible.
- In both cases, the Netherlands Presidency will actively request the GSC to make the documents accessible to the public immediately.
- The Netherlands Presidency will also actively request the GSC to make legislative LIMITE documents which are not to be submitted to the Council after having been dealt with in Coreper I or II accessible to the public, unless this is not allowed under the Rules of Procedure (see annex II) of the Council or there are valid grounds for not doing so based on the exceptions set out in article 4 of Regulation (EC) No. 1049/2001.
- The Presidency notes that the current guidelines (11336/11) on handling LIMITE documents do not allow documents to be made accessible to the public without prior authorisation by the GSC.

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Annex: Rules of Procedure of the Council regarding public access to documents

Public/non-public legislative documents (see in particular, articles 7, 8, 9 and 10 and annex II of the Rules of Procedure)

Documents directly accessible to the public

- Documents relating to a legislative act submitted to the Council (such as a general approach or progress report)
  ➔ Minutes, the results of votes, explanations of votes and statements in the Council minutes are also public

- Acts (regulation /directive) adopted by the Council during an ordinary or a special legislative procedure
  ➔ Minutes, the results of votes, explanations of votes and statements in the Council minutes are also public

- Notes submitted to Coreper and/or to the Council for approval ('I' and 'A' item notes) concerning legislative acts and draft legislative acts

- Joint texts approved by the Conciliation Committee after the second reading
  ➔ Results of votes and explanations of votes are public

Documents available to the public as soon as they have been circulated, unless covered by the exceptions laid down in Regulation (EC) No. 1049/2001

- Information notes, reports, progress reports and reports on the state of discussions which do not reflect individual positions of delegations

Documents made public after adoption

- All documents drawn up in the framework of an ordinary or special legislative procedure (information notes, reports, progress reports and reports on the state of discussions) with the exception of opinions of the Council's Legal Service and documents covered by the exceptions laid down in article 4, paragraphs 1 to 3 of Regulation (EC) No. 1049/2001.

Not public (= LIMITE)

- Legal Service opinions

➔ The Rules of Procedure of the Council distinguish between consideration of documents by the Council and by Council working parties/Coreper. All legislative documents placed on the Council agenda must be publicly available. Legislative documents presented to Council working parties/Coreper may be disclosed (with the exception of Legal Service opinions) provided they do not fall under the exceptions laid down in Regulation (EC) No. 1049/2001.