

CM2004 Note on steps to take towards the improvement of the transparency of Council decision making during the upcoming EU Presidency of the Federal Republic of Germany

4 May 2020

Introduction

On 1 July 2020, the Federal Republic of Germany will take over the Presidency of the Council of the European Union. In this capacity, Germany will set the Council's decision-making agenda for six months. In the Declaration of the Trio Presidency 2020-2021, Germany joined in declaring the strengthening of democracy as a central commitment.¹ An important precondition for the functioning of European democracy is the transparency of its decision making. Germany has on an earlier occasion been a strong supporter of further-reaching transparency by adopting, in 2013, a 'Europagesetz'. This law foresees in the direct and full supply of relevant European decision-making documents to the Bundestag, in principle in a manner that is open to the public.²

Six concrete proposals for action

Given the pre-eminent importance of ensuring the transparency of European decision making, the Meijers Committee applauds this commitment. To facilitate the German Presidency's work in this area, the Meijers Committee presents this note with six realistic proposals for improvement of the current transparency arrangements. These proposals are:

1. Continue the experiment with wider **proactive disclosure of legislative documents** initiated by the 2019 Finnish Presidency
2. 'Lisbonise' **Regulation 1049/2001**
3. Finalise the 'one-stop shop' **legislative observatory**
4. Further develop the Council's standing practice on the proactive **publication of contacts with lobbyists**
5. Promote greater coherence of **drafting, registration, and disclosure of Council documents**
6. Prepare the internal debate in the Council on **the legal definition of a 'document'** adapted to new modes of communication

Previous activities of the Meijers Committee

The Standing Committee of Experts on International, Immigration, Refugee and Criminal Law (the Meijers Committee), founded in 1990, has taken a long-standing interest in the issue of European transparency. During the negotiations on the Amsterdam Treaty in 1997, the Committee published a note in English, German and French with concrete textual proposals for new articles in the EU Treaty. One of those proposals became Article 255 TEC, the basic provision on access to EU information, which was later transposed into Article 15(3) TFEU. In 1999, two Members of our Committee drafted a legislative instrument on access to documents implementing Article 255 TEC, which was used as a model by the European Commission for its proposal of what later became Regulation 1049/2001 on access to documents of the European institutions. Finally, in 2015, the Committee published a note to

¹ Auswärtiges Amt (German Federal Foreign Office), Meeting of the Foreign Ministers of Germany, Portugal and Slovenia - Declaration on the Trio Presidency 2020/2021, <https://www.auswaertiges-amt.de/en/newsroom/news/trio-presidency/2220462>, 22 May 2019.

² Gesetz über die Zusammenarbeit von Bundesregierung und Deutschem Bundestag in Angelegenheiten der Europäischen Union (Act on the Cooperation between the Federal Government and the German Bundestag in European Union Affairs), BGBl. I S. 2170, 4 July 2013.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

the European Affairs Committees of both chambers of the Dutch Parliament on the added value of adopting a European information law, in which the German 'Europagesetz' served as a direct source of inspiration. A draft law to this end is currently being discussed in the Dutch House of Representatives.

Below, each of these proposals is set out in greater detail.

1. Continue the experiment with wider proactive disclosure of legislative documents initiated by the 2019 Finnish Presidency

Recommendation:

- *Continue the Finnish initiative to expand proactive disclosure of legislative documents and to ensure the limited application of the 'limite' label to such documents, restricting both the number of documents and the duration of the validity of this label.*

At the beginning of its Presidency, Finland announced an initiative for the enhancement of legislative transparency.³ The introduced measures focussed on disclosure standards falling within the prerogatives of the Presidency, according to the Council's rules of procedure. They included the proactive disclosure, without prejudice to the exceptions under Regulation 1049/2001 and with due regard to confidentiality requirements, of progress reports; initial mandates of trilogue negotiations; the institutions' initial positions in trilogue negotiations; and trilogue negotiations' final outcomes. This practice entailed, inter alia, a more careful and restricted application of the 'limite' document label to legislative documents, as the application of this label in practice prevents the Council from proactively disclosing such documents.

At the end of its Presidency, Finland reported that the measures had led to an increase in proactively disclosed documents, without noticeable adverse consequences. However, the Finnish Presidency also observed that it had overseen relatively little legislative activity, due to the start of a new institutional cycle, during which the new Commission was not yet fully operative. It thus recommended continuing the experiment.⁴ The Croatian Presidency accepted this recommendation, and currently continues the Finnish initiative regarding legislative transparency.⁵

Given the current encouraging signals coming from the experiment to enhance legislative transparency, the Meijers Committee **recommends the upcoming German Presidency to continue this initiative**. The Committee considers the visibility of legislative decision making a central precondition for the democratic legitimacy of the European Union. The direct and full disclosure of legislative documents, as required by Regulation 1049/2001, Article 12(2), enables citizens to hold decision makers to account, and to participate in the legislative process. As the *De Capitani* judgment clarified, this also extends to informal legislative negotiations under the trilogue procedure.⁶

³ Finland's Presidency of the Council of the European Union, Openness and Transparency -Finland's Presidency of the Council of the European Union, Document 11999/19, 6 September 2019.

⁴ Finland's Presidency of the Council of the European Union, Openness and Transparency during Finland's Presidency of the Council of the European Union-Presidency Report, Document 14856/19, 13 December 2019, p. 9.

⁵ General Secretariat of the Council of the European Union, Working Party on Information, Outcome of Proceedings, Document 5909/20, 7 February 2020, p. 2.

⁶ Case T-540/15, *De Capitani v European Parliament*, 22 March 2018.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

2. 'Lisbonise' Regulation 1049/2001

Recommendation:

- *Enter into a dialogue with the Commission and the European Parliament to launch a new legislative proposal to ensure a limited revision of Regulation 1049/2001 to align it with the requirements in the Lisbon Treaty (so-called 'Lisbonisation') and seek the required support within the Council for such a revision.*

The European Commission first tabled a proposal for a recast of Regulation 1049/2001 concerning access to documents in 2008.⁷ This draft proposal failed to garner sufficient support in the European Parliament and the Council. In December 2009, the Lisbon Treaty entered into force. Article 15(3) of the TFEU now stipulates that the right of access to documents applies to the Union's "institutions, bodies, offices and agencies." Since Regulation 1049/2001 only applies to the European Parliament, the Council and the Commission, it does not conform to the Lisbon Treaty. A minimal recast proposal of the Commission⁸ to align Regulation 1049/2001 with Article 15(3) TFEU again ended in deadlock.

As a result, Regulation 1049/2001 has now entered its eleventh year of non-conformity with the European Treaties. The European institutions have ensured that bodies, offices and agencies falling within their remit have adopted their own access to documents rules, while independent institutions have voluntarily adopted their own as well. Nevertheless, this has led to a wide variety of practices, lacking common standards. This situation does not contribute to transparency.

These legal and practical hiatuses notwithstanding, the European Commission, in its most recent Work Programme, decided to withdraw both recast proposals, citing a lack of agreement, and the outdatedness of the standing proposals as reasons.⁹

The Meijers Committee observes that there is widespread agreement about the undesirability of the current situation, in which Regulation 1049/2001 fails to function in conformity with the European Treaties. The deadlock of 2011 dates from the sixth European Parliament, while last year, the ninth European Parliament was installed. The new political landscape at European level appears to be more favourable to break the deadlock.¹⁰ This includes the Council where, in spite of large differences on the question of transparency, several member states recently spoke out in favour of 'Lisbonisation' of Regulation 1049/2001.¹¹ 'Lisbonisation' excludes both a limitation and an expansion of access rights, and would merely amount to a further codification of rights that are already contained in the European Treaties. Thus, it would be politically neutral.

The Meijers Committee believes that **the incoming German Presidency would be in a position to realise significant progress on this dossier, possibly leading to a breakthrough before the end of**

⁷ European Commission, COM (2008) 229 FINAL, 30 April 2008.

⁸ European Commission, COM (2011) 137 FINAL, 21 March 2011.

⁹ European Commission, COM (2020) 37 FINAL, 29 January 2020, annex IV, point 31.

¹⁰ European Parliament, LIBE Committee, Legislative Train, Revision of the Access to Documents Regulation, <https://www.europarl.europa.eu/legislative-train/theme-civil-liberties-justice-and-home-affairs-libe/file-revision-of-the-access-to-documents-regulation>, 20 February 2020

See also Interinstitutional Agreement on Better Law-Making, 13 April 2016, part V, point 27.

¹¹ General Secretariat of the Council of the European Union, Working Party on Information, Outcome of Proceedings, Document 5909/20, 7 February 2020, p. 3.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

2020. With visible movement on this issue inside the Council, both legislative partners will be more likely to support to 'Lisbonisation', by respectively tabling, and adopting a proposal to this end.

3. Finalise the 'one-stop shop' legislative observatory

Recommendation:

- *Take proactive steps to identify outstanding obstacles in the finalisation of the 'one-stop shop' legislative observatory and ensure its realisation during the German Presidency.*

The need to establish an accessible and clear legislative observatory that serves as a 'one-stop shop' was already recognised in the Interinstitutional Agreement (IIA) on Better Law-Making. This IIA stated that the three institutions would identify the way forward on developing the legislative observatory by the end of 2016.¹² Unfortunately, four years later, this portal is still not realised, in spite of its endorsement in the IIA by the three signatory institutions.¹³ The Meijers Committee observes that communication on the progress of the project has been very limited. This prevents the Committee from assessing where and for which reasons the delay in the realisation of the portal has arisen. Similar signals of incomprehension have reached us from other actors within the European legislature. However, it is our understanding that work on the portal has progressed far already.

The Meijers Committee believes that a delay of this duration does not reflect well on the European institutions' commitment to enhancing the transparency of legislative decision making in the public perception. Therefore, the Meijers Committee **urgently calls on the incoming German Presidency to do all that it can to ensure the long-overdue launch of the legislative observatory at the earliest possible time.** The Committee is convinced that the active support of the German Presidency would lend this objective considerable political clout, while falling clearly within the mandate of an impartial Council Presidency. At the same time, the successful realisation of the legislative portal would be a highly visible positive result of the German Presidency in an area that is close to heart for many European voters: that of making EU decision making less opaque and more accessible.

4. Further develop the Council's standing practice on the proactive publication of contacts with lobbyists.

Recommendations:

- *Table a Presidency Trio proposal together with Portugal and Slovenia to place the practice of disclosing meetings with lobbyists by the Presidency on a permanent footing.*
- *Turn the current policy of the German permanent representation into a permanent policy (that is, even after the end of the German Presidency).*

Efforts to regulate lobbying activity in the European institutions have a long history, dating back to 1994. In 2011, the European Parliament and the Commission adopted a jointly operated Transparency Register. Lobbyists were called upon to (voluntarily) register, while the two institutions reserved the right to exclude non-registered lobbyists.¹⁴ In 2014, the incoming Juncker Commission made

¹² Interinstitutional Agreement on Better Law-Making, 13 April 2016, part VI, point 39.

¹³ General Secretariat of the Council of the European Union, Working Party on Information, Outcome of Proceedings, Document 5909/20, 7 February 2020, item 2b, third bullet point.

¹⁴ J. Greenwood and J. Dreger (2013), *The Transparency Register: A European vanguard of strong lobby regulation?*, *Interest Groups and Advocacy* 2(2), pp. 139-162.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

improvement of lobbying transparency key priority, pledging to update and expand the transparency register. To this end, decided early on that commissioners, cabinet members, and directors-general would no longer meet unregistered lobbyists.¹⁵ The European Parliament followed suit in 2019, by barring MEPs from meeting unregistered lobbyists and imposing a duty to publish all meetings with registered lobbyists.¹⁶

The Council remained outside of these initiatives. This changed however when in September 2016 the Commission presented a draft IIA on a mandatory Transparency Register, which sought to make a variety of lobbying prerogatives and activities contingent on registration. In the case of the Council, the Commission foresaw, *inter alia*, in a prohibition of meetings with unregistered lobbyists for (a) ambassadors and deputy ambassadors of current and forthcoming Presidencies, (b) the Council Secretary-General, and (c) Council Directors-General (Article 5).¹⁷

Regrettably, the inter-institutional talks collapsed in April 2019, a year after they were started. As a consequence, no binding rules concerning lobby transparency currently exist in the Council. One of the arguments raised in the Council against such rules, was the fact that the member state delegations, not being EU organs, cannot be compelled to adhere to them. The Meijers Committee observes that this reasoning is inconsistent with current Council practice laid down in the ‘Guidelines for handling of documents internal to the Council’ which are deemed applicable to “member states as members of the Council”.¹⁸

In this respect, the Meijers Committee does not see a fundamental difference between the application of these ‘guidelines’ and a prohibition on meeting unregistered lobbyists. Both compel Council members to refrain from certain behaviours outside of the direct context of Council meetings, and both have, to paraphrase the Council a ‘direct impact on the functioning of the Council’ requiring loyal cooperation. Yet, while the binding character of the internal ‘limite’ guidelines has been called into question because they were never adopted in a binding legal instrument,¹⁹ an IIA would require formal adoption and publication in the Official Journal. Furthermore, making lobby transparency rules binding on member state representatives directly involved in Council legislative activity would in no way prevent other civil servants of those member states from meeting whomever they choose at their national ministries.

The reservations of the Council notwithstanding, various member states, mindful of the trust, legitimacy, and public perception questions connected to the influence of Brussels lobbyists, have taken voluntary steps to improve lobby transparency. In this light, the Finnish Presidency was the first to announce that it would proactively publish all meetings of its ambassador and deputy ambassador

¹⁵ European Commission, Public consultation on a proposal for a mandatory transparency register, https://ec.europa.eu/info/consultations/proposal-mandatory-transparency-register_en, 1 March 2016.

¹⁶ European Parliament, Rules of Procedure of the European Parliament, Ninth Parliamentary Term, https://www.europarl.europa.eu/doceo/document/RULES-9-2019-07-02-TOC_EN.html, December 2019, rule 11, paragraphs (2) and (3).

¹⁷ European Commission, COM (2016)627 final, Proposal for a Interinstitutional Agreement on a mandatory Transparency Register. <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-627-EN-F1-1.PDF>, 28 September 2016.

¹⁸ Council of the European Union, Document 7695/18, Guidelines for handling of documents internal to the Council, 10 April 2018, point 2.

¹⁹ Tweede Kamer der Staten-Generaal (2017), Brief van de Parlementair Advocaat betreffende de verenigbaarheid van het Europese transparantierecht met de Richtsnoeren voor de behandeling van interne Raadsdocumenten, Kamerstukken 22112, Nr. 2321, vergaderjaar 2016-2017.

(House of Representatives of the Dutch Parliament, Letter from the Parliamentary Lawyer on the compatibility of European transparency law with the Guidelines for the handling of internal Council documents)

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

to the EU, in line with the Commission's 2016 proposal for an inter-institutional agreement.²⁰ The Croatian Presidency has followed suit as of 21 October 2019.²¹ The Meijers Committee is pleased that Germany has decided to follow this example.²² The Committee encourages Germany to **place this practice on a permanent footing even after the termination of its Presidency**. To this end, we call on the German Presidency to table a proposal to this end together with the Portuguese and Slovenian upcoming Presidencies that together form the next Presidency Trio. The Meijers Committee further calls on Germany **to maintain its own lobby transparency policy in place after its Presidency ends**, thus following the example of the Irish, Dutch, Romanian, Croatian and Italian permanent representations.

5. Promote greater coherence of drafting, registration, and disclosure of Council documents

Recommendation:

- *Reopen the dialogue with the member states and the General Secretariat on measures to improve the cohesion, standardisation and clarity of document management across the Council.*

The Meijers Committee believes that good document management is a pivotal precondition for a well-functioning access to documents regime. Without a sufficient amount of overarching coherence in the way documents are drafted, registered and circulated, it becomes difficult, if not practically impossible for interested outsiders to know about, identify and locate relevant documents.

The European Ombudsman, in her own-initiative inquiry concerning the transparency of the Council legislative process, observed inconsistencies in the documentation of different preparatory bodies, in terms of the amount, completeness, and detail of records. She therefore recommended that the Council adopt guidelines concerning documents to be drawn up during the Council legislative procedure and informed contained in them.²³

In July 2018, the Council General Secretariat initiated the discussion in this area with a draft policy paper on legislative transparency containing a series of proposals to ensure cohesiveness and standardisation of the legislative document trail.²⁴ The Meijers Committee concluded at the time that while measures in this area are useful and necessary, the Council must not allow reform to undermine the transparency of the legislative process.²⁵ The Committee still holds this view, which is here illustrated with a few short examples.

²⁰ Permanent Representation of Finland to the EU, Transparency register, <https://finlandabroad.fi/web/eu/transparency-register>, 2019.

²¹ Permanent Representation of the Republic of Croatia to the EU, Transparency register, <http://eu.mvep.hr/en/permanent-representation/transparency/meetings/>, 2019.

²² Permanent Representation of the Federal Republic of Germany to the European Union, Transparency register, <https://bruessel-eu.diplo.de/eu-de/staendigevertretungeu/-/2264232>, 2019.

²³ Special Report of the European Ombudsman in strategic inquiry OI/2/2017/TE on the transparency of the Council legislative process, 16 May 2018, paras 17-18.

²⁴ Council of the European Union, Document 11099/18, General Secretariat note on legislative transparency, 13 July 2018.

²⁵ Meijers Committee (2018), Note CM 1813 Note to the Presidency of the Council concerning the General Secretariat draft policy paper on legislative transparency, pp. 4-5.

Meijers Committee (2017), Input offered by the Meijers Committee for the European Ombudsman's Public Consultation regarding the transparency of legislative work within Council preparatory bodies, questions 2, 3.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

With regard to document *drafting*, current rules and guidelines do not stipulate how a legislative document must be drafted, meaning that practices diverge widely. A pre-established framework for the 'legislative trail' can help create a more uniform legislative document trail, increasing systemic transparency. At the same time, setting minimal rules can also decrease the amount of detail in documents. The 'milestones approach' as currently propagated by the Council Secretariat runs this risk. It provides little detail concerning de facto contents of documents, proposes ambiguous drafting thresholds, and proposes to exclude certain information from the category 'legislative documents'.

Concerning document *registration*, the Meijers Committee observes that much of the progress of legislative negotiations is still recorded in unnumbered informal documents or documents with alternative numbering systems. As a consequence, it appears that many legislative documents do not even appear in the public register. A related problem is the identification of relevant documents in the public register. When documents are registered in ways that require an intricate knowledge of Council bodies and procedures, it becomes very difficult for outsiders to identify them via searches in the Council document register.

As regards *proactive disclosure*, the Committee recalls that in accordance with Regulation 1049/2001, Article 12(2), all legislative documents are expected to be fully and directly disclosed through the public document register of the institution in question. The General Secretariat proposal to fulfil this obligation has been to identify 'categories' of documents for direct disclosure,²⁶ yet it remains unclear about what categories it has in mind. In any event, it would be useful to enumerate and critically evaluate all currently existing categories in advance, rather than to do so on an ad-hoc basis. At the same time, the Meijers Committee reiterates that the concept of a legislative document, although subject to elaboration in the institutions' internal rules of procedure, is not infinitely stretchable. The Committee recalls that, in accordance with the case law, documents recording 'proposals for amendments to draft legislation' and four-column documents of trilogue negotiations are legislative documents,²⁷ which must, in principle, be directly disclosed.²⁸ The Ombudsman, moreover, has criticised the widespread indiscriminate application of the 'limite' label as representing a disproportionate restriction on citizens' access rights and therefore maladministration.²⁹

The Meijers Committee thus **calls on the German Presidency to renew the dialogue with Council members and with the General Secretariat concerning ways in which the drafting, registration and disclosure practices can be made more cohesive and standardised.** Points where improvements could be made are (a) the adoption of minimum drafting requirements governing information to be included and the timing of the documents, (b) standardised document registration that takes into consideration the needs of outsiders unfamiliar with internal structures, and (c) the development of a more uniform document trail, which would allow the Council to establish more clearly in advance which documents qualify for full and immediate disclosure.

²⁶ Council of the European Union, Document 11099/18, General Secretariat note on legislative transparency, 13 July 2018

²⁷ Case C-280/11, *Council v Access Info Europe*, 17 October 2013, para 51.

Case T-540/15, *De Capitani v Parliament*, 22 March 2018, para 74.

²⁸ European Ombudsman decision on complaint 2066/2004/TN, 2 June 2005.

²⁹ Tweede Kamer der Staten-Generaal (2017), Brief van de Parlementair Advocaat betreffende de verenigbaarheid van het Europese transparantierecht met de Richtsnoeren voor de behandeling van interne Raadsdocumenten, Kamerstukken 22112, Nr. 2321, vergaderjaar 2016-2017, point 6.1.5.

(House of Representatives of the Dutch Parliament, Letter from the Parliamentary Lawyer on the compatibility of European transparency law with the Guidelines for the handling of internal Council documents)

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

6. Prepare the internal debate in the Council on the legal definition of a ‘document’ adapted to new modes of communication

Recommendation:

- *Organise an expert seminar about the changing nature of the concept of ‘a document’ in times of diversifying modes of communication, and its legal and practical challenges.*

Regulation 1049/2001, adopted in May 2001, was conceived at an early point in the information technology revolution. Understandably, the legislator could not foresee the direction that communication instruments within the European institutions would take in the decades that followed. European leaders increasingly communicate with the public through privately owned social media, while European institutions have developed new modes of internal communication that go beyond documents attached to emails. The Commission’s 2008 recast proposal of Regulation 1049/2001 recognised these changes, by proposing an updated definition of the legal concept of ‘document’ for the purpose of access to documents requests. The draft legislation was criticised at the time for limiting the scope of the access right, by making it applicable only to documents transmitted or formally registered,³⁰ and was recently withdrawn by the incoming Von der Leyen Commission.

The potential problems, however, remain. The definition of a document under Regulation 1049/2001 as encompassing “any content whatever its medium”, including sound, visual, and audio-visual content and paper and electronic media³¹ is particularly broad. However, given the constant possibility of European institutions and decision makers to alternate between different modes of communication, we consider this wide scope justified. At the same time, the implementation practice in the Council still does not give full cognisance to the possibility of multi-medial access requests. This is testified by two confirmatory applications filed in 2019 to the European Council³² and the Council.³³ These requests, directed to the European Council, related to messages sent by Tusk in his capacity as European Council President through a variety of digital communication modes including WhatsApp, Telegram and Facebook Chat.

In response, the Council Legal Service has developed a defence for non-disclosure that relies on criteria of relevance (“a content must concern a matter relating to the policies, activities and decisions falling within the institution’s sphere of responsibility”) and robustness (“a content requires a minimum degree of stability and formality”), meaning that contents should not be “ephemeral or short-lived.”³⁴

The Meijers Committee is of the opinion that while the broad definition of a document under Regulation 1049/2001 remains functional under the changing conditions of institutional communication, it is indeed in need of operationalisation both at a legal and an administrative level. The Council Legal Service’s interpretation in the context of the above-mentioned confirmatory applications offers a first attempt at formulating a response. However, we consider this approach potentially problematic from the perspective of the principle of transparency as laid down in

³⁰ Proposal for a Regulation of the European Parliament and of the Council regarding public access to European Parliament, Council, and Commission documents, 2008/0090 (COD), article 3(a).

³¹ Regulation 1049/2001 of the European Parliament and of the Council regarding public access to European Parliament, Council, and Commission documents, 30 May 2001, article 3(a).

³² European Council, Document EUCO 8/1/19, Confirmatory application No 09/c/01/19, 15 May 2019.

³³ Council of the European Union, Document 14580/19, Confirmatory application No 39/c/01/19, 28 November 2019.

³⁴ European Council, Document EUCO 8/1/19, Confirmatory application No 09/c/01/19, 15 May 2019, point 5.

Meijers Committee

standing committee of experts on international immigration,
refugee and criminal law

Regulation 1049/2001 and interpreted by the Court of Justice. In particular, application of the line formulated by the Council Legal Service appears to add new preconditions that go beyond those recognised by said legal sources. This goes against the principle of the widest access.

That said, the Meijers Committee recognises that the inclusion of unconventional digital communication carriers under the right of access confronts the Council with certain hitherto unconsidered questions. These relate, inter alia, to administrative organisation and capacity, privacy, and the possibilities and limitations under existing applicable European law. In this light, we **recommend the German Presidency to initiate a discussion on the changing nature of the concept of a document in times of diversifying modes of communication.** The organisation of a seminar could be a suitable format for an exchange of thoughts on this issue.

Seven recommendations

In this note, the Meijers Committee has made several suggestions for concrete and realistic steps that the German Presidency could take to improve the transparency of decision making in the Council. These concrete suggestions are summed up below:

- *Continue the Finnish initiative to expand proactive disclosure of legislative documents and to ensure the limited application of the 'limite' label to such documents, restricting both the number of documents and the duration of the validity of this label.*
- *Enter into a dialogue with the Commission and the European Parliament to launch a new legislative proposal to ensure a limited revision of Regulation 1049/2001 to align it with the requirements in the Lisbon Treaty (so-called 'Lisbonisation') and seek the required support within the Council for such a revision.*
- *Take proactive steps to identify outstanding obstacles in the finalisation of the 'one-stop shop' legislative observatory and ensure its realisation during the German Presidency.*
- *Table a Presidency Trio proposal together with Portugal and Slovenia to place the practice of disclosing meetings with lobbyists by the Presidency on a permanent footing.*
- *Turn the current policy of the German permanent representation into a permanent policy (that is, even after the end of the German Presidency).*
- *Reopen the dialogue with the member states and the General Secretariat on measures to improve the cohesion, standardisation and clarity of document management across the Council.*
- *Organise an expert seminar about the changing nature of the concept of 'a document' in times of diversifying modes of communication, and its legal and practical challenges.*

* * *