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NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee
Subject: Legislative transparency approach

1. On 18 July 2018, Coreper held an exchange on the basis of a draft policy paper on legislative transparency presented by the GSC. Several discussions took place in Antici + 1, allowing further clarifications of the issues and of the positions of delegations.
2. On 2 May 2019, Coreper provided guidance on the use of General Approaches and targeted publication, and tasked Antici + 1 to take work forward on the basis of the guidance provided.
3. Following the discussions in Antici + 1, the approach in annex is submitted to Coreper for endorsement.

Legislative transparency approach

1. Unless, in the view of the Presidency, it risks hampering the efficiency of the legislative process, the initial mandates of the Council for trilogue negotiations, where applicable in accordance with Article 294 TFEU, will be endorsed at Council level in the form of a General Approach.
2. In cases where the Presidency assesses that the recourse to a General Approach risks hampering the effectiveness of the legislative process, notably in light of the calendar of planned negotiations, the Presidency may propose the endorsement of the initial mandate at the level of Coreper. In such cases, the mandate will be made public after its endorsement in Coreper.
3. Initial mandates for negotiations cannot be provided at working party level; an agreement reached at the level of a working party must always be validated by Coreper.
4. Paragraphs 1 to 3 are without prejudice to the practice applicable for revising mandates during the negotiations.
5. The following will be issued as public documents:
 - a. the Council document containing the Commission proposal, in accordance with existing practice;
 - b. working party agendas on which legislative files feature as items, in accordance with existing practice;
 - c. progress reports submitted to Coreper, after endorsement by Coreper and if no objection has been raised in Coreper to their publication. Such an objection may be raised by any delegation; relevant provisions of the Council's Rules of Procedure will apply as concerns making public a document;

- d. progress reports submitted to Council, as well as other documents relating to legislative files and which feature on the Council agenda, will continue to be made public in accordance with existing practice;
 - e. the initial Council mandate, in line with above;
 - f. the final position of the Council reflecting the final outcome of negotiations, after examination by Coreper and in coordination with the other institutions;
 - g. the offer letter once sent to the EP, along with its annex;
 - h. documents relating to the adoption stage of a legislative file, including PE-CONS document, approval or non-approval of EP position at first reading, Council position at first reading, statement of reasons, approval or non-approval of EP amendments at second reading.
6. For other documents relating to trilogues, the GSC will enter into exploratory talks with the other institutions involved in the trilogue process, in order to identify a common and systematic approach on the handling of these jointly-held documents. The GSC will report to Coreper in due course on the progress achieved and will seek Coreper guidance as appropriate on next steps.
7. This approach is without prejudice to the application of Regulation (EC) 1049/2001 and other relevant Union law.
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