



Council of the European Union
General Secretariat
The Secretary-General

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Ms Vicky Cann
Corporate Europe Observatory
Mundo-B (2nd floor)
Rue d'Edimbourg 26
1050 Brussels

Subject: Your letter of 3 July 2019

Dear Ms Cann,

Thank you for your letter of 3 July 2019. I would like to take this opportunity to clarify the legal framework and the practice in the Council preparatory bodies, concerning external speakers.

Firstly, let me underline that the fact that external speakers are sometimes invited to attend a meeting of a Council working party is neither irregular nor illegal.

In the comments on the Council's rules of procedure (which were sent to you together with the letter dated 29 October 2018), it is explained that under Article 6, *"the Council may, whenever it considers it appropriate, decide by a simple majority to open its deliberations - or to disclose their content, inter alia by forwarding documents - to certain persons (or categories of persons). The presence of observers must be authorised by the Council for a specific item on the agenda. In this case, the Presidency must warn the Council members of this fact in advance. In respect of this item, the Council (or the relevant preparatory body) implicitly decides, by simple majority, to set aside the professional secrecy provided for in Article 6(1). The observer must leave the room once the deliberations on this item have ended, or when requested to leave by the Presidency. The third-party observer may be invited by the Council Presidency to state his or her views or inform the Council concerning the subject at issue.*

From a legal point of view, the third party does not participate in the deliberations leading to the taking of a decision by the Council, but simply provides the Council with information which it can draw upon before taking its decision.

The same rules apply to meetings of the Council's preparatory bodies. The Presidency is responsible for organising the proceedings so as to preserve the Council's decision-making autonomy".

In practice, in most of the working parties, external speakers are not invited. At the same time, in the working party you have mentioned in your letter (i.e. the Working Party on Competitiveness and Growth), due to the subject-matter it happens fairly frequently, as you also set out in your letter.

In this context, I would like to point out the following:

- the presence of external guests has the objective to inform delegations about their views on a topic of interest to the Working Party
- the presence of external guests is strictly limited to the agenda item of the presentation. They are allowed into the room when the item starts being discussed and are escorted out of the room when the agenda item ends.
- agendas are adopted at the beginning of each meeting, thereby allowing delegations to object if they do not wish to have an external speaker present for a particular item. As regards the rare, and in my view unfortunate cases where the agenda only indicates "*Presentation by stakeholders*", it is noted that the Chairperson generally announces the identity of the speakers before the adoption of the agenda. Delegations are often informed also by email in advance and, to my knowledge, no opposition has been raised to the presence of external guests.
- the guest speakers are not to take part in the deliberations between members of the working party or committee, especially on legislative proposals. Such deliberations are to take place after the departure of the guest, in order to preserve decision-making autonomy of the Council, the work of which is prepared by its preparatory bodies. When the agenda states "*Presentation by an external speaker - Exchange of views*", it means that the presentation is followed by a Q&A session, allowing delegations to seek clarifications from this external guest.
- the presentations made by external speakers are generally distributed to delegations as a working document; however indeed, as you outlined, we do not have an established practice to publish them proactively for the public.
- regarding the choice of the speakers who are invited to give a presentation to a Council working party, this is done on the Presidency's initiative and depending on the subject-matter.

Having said that, I agree with you that the process could be much more transparent and clearer for citizens. In the interest of the public, we should indicate on the agendas clearly which external speakers are invited, and endeavour to make public any documents they present to the Working Party. To that end, I intend to review the practice so far and issue guidelines for the GSC services and the Presidency on the attendance of external guests at the meetings of the Council and its preparatory bodies. Those guidelines will also be made public so that you, as well as any other member of the public, can access them.

Yours sincerely,



Jeppe TRANHOLM-MIKKELSEN