



**COUNCIL OF
THE EUROPEAN UNION**

Brussels, 20 September 2013

13832/13

**API 81
INF 155**

OUTCOME OF PROCEEDINGS

from: General Secretariat of the Council of the Council
to: Delegations
Subject: Outcome of proceedings of the Working Party on Information on 13 September 2013

1. Adoption of the agenda

The agenda set out in document CM 4134/13 was adopted.

2. Transparency / access to documents

**a. Case T-395/13 (Miettinen v. Council)
- Information from the Council Legal Service**

The Council Legal Service informed the Working Party about this action notified on 16 August 2013, brought before the General Court by Mr Samuli Miettinen, which seeks the annulment of the Council's decision of 21 May 2013, to refuse full public access to document 12979/12.

Although in the confirmatory stage the Council granted partial access to parts of the requested document, full access was refused pursuant to the second indent of Article 4(2) (protection of the public interest as regards legal advice) and to the first sub-paragraph of Article 4(3) (protection of the Council's decision-making process) of Regulation N° 1049/2001.

The applicant invokes the following grounds in support of his claim for annulment:

- misapplication of Article 4(2) second indent of Regulation 1049/2001,
- misapplication of Article 4(3) first subparagraph of Regulation 1049/2001,
- misapplication of the overriding public interest test contained in Articles 4(2) and 4(3) of Regulation 1049/2001 and
- breach of the obligation to provide a sufficient statement of reasons.

The Council must lodge a statement of defence within two months of the date on which the application was notified to it.

b. Decision of the Ombudsman closing his inquiry into complaint 531/2012/MMN against the European Council
- **doc. 13396/13**

The General Secretariat of the Council informed the Working Party about complaint 531/2012/MMN concerning an alleged instance of maladministration by the European Council for not having identified and mentioned more than one document relating to discussions held with the Institute of International Finance (IIF) before, during and after the Euro Summits and European Council summits of July 21st, October 23rd and October 26th 2011.

By decision of 29 August 2013, the European Ombudsman closed his inquiry into the complaint without finding any maladministration.

c. Confirmatory application No 17/c/01/1.
- **doc. 13111/13**

The Chair informed the Working Party that it had been decided not to discuss this confirmatory application in this meeting. Since the discussions on the dossier to which the requested documents refer are likely to be finalised soon, the General Secretariat of the Council will try to find out whether the applicant agrees to getting access to the requested documents after the negotiations have been finalised, which will be after the deadline applicable for this application.

In the case of a negative reply from the applicant, the draft reply will be submitted for approval by written consultation.

**d. Re-examination of confirmatory application made by Mr Miettinen (No 04/c/01/13)
- Doc. 13333/13**

The Council Legal Service informed the Working party about the suggested approach related to the action for annulment pursuant to Article 263 TFUE lodged before the General Court by M. Samuli Miettinen (case T-303/13) and notified to the Council on 12 June 2013. The confirmatory application made by the applicant (No 04/c/01/13) should be reconsidered under Regulation (EC) No 1049/2001 and Annex II to the Council's Rules of Procedure.

This confirmatory application concerned document 15309/12 which is an opinion of the Council Legal Service relating to the proposal for a Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law.

In its decision of 25 March 2013, the Council confirmed the reply given by the General Secretariat of the Council at the initial stage, maintaining the conclusion that at that point in time full public access to the requested document had to be refused. However, in the light of subsequent factual circumstances which occurred following the adoption of the contested decision (notably the public discussion of the appropriate legal bases in the course of the Justice and Home Affairs Council on 6 June 2013), it has been considered appropriate to re-assess the request for access in full consideration of the principles underlying Regulation (EC) No 1049/2001 and the aim of ensuring the widest possible public access to documents.

At the present point in time, it is proposed that full public access to document 15309/12 can be granted.

The Working Party agreed with this approach. The draft reply (doc. 13333/13) would be listed on the agenda of the meeting of COREPER II on 18 September 2013 in view of its final adoption by the Council on 23 September 2013.

e. Council Open Sessions

The General Secretariat of the Council informed the group that it was going to issue a short questionnaire on how Member States prepare for Council open sessions (doc. 13287/13).

The results of this questionnaire will be presented for discussion at the WPI's meeting foreseen for October.

3. Communication / information policy (*)

a. Draft communication budget 2014

Opening the debate, the Chair recalled that the aim of the discussion was to focus on the possible impact of the budget cuts suggested by the Commission (which mainly concern "Communicating Europe in Partnership", some multimedia projects and the programme "Europe for Citizens") on the Member States' communication strategies and on the interinstitutional cooperation in the coming year.

The Commission's DG COMM representative reiterated that the institution was obliged to reduce the communication budget in order to respect the ceilings agreed by the Member States' with regard to the Multiannual Financial Framework. The required average reduction of 20% of the overall budget for communication was achieved by deciding severe cuts for instruments deemed not cost-effective, instead of operating a linear (horizontal) 20% cut that would penalize all activities.

The Commission therefore confirmed that, as specified at the WPI meeting on 12 July 2013 and notified by its representations to the relevant national authorities, Management Partnership Agreements (MPAs) will be discontinued by 31 December 2013. It will be possible to carry out communication activities envisaged in 2014 as a result of commitments already made this year under the existing MPA umbrella.

The Commission's representative pointed out that the decision to discontinue MPAs does not imply that cooperation among the Institutions and between the Institutions and the Member States will stop. Notwithstanding any existing budget constraint, Article 2 of the Joint Declaration "Communicating Europe in Partnership" encourages the convergence of views of the key players in order to work together to communicate the EU's added value.

To this end, discussions are taking place in the Member States among the EC representations, the EP information offices and the national authorities on possible new forms of cooperation such as "strategic" or "one-off" partnerships. Within this alternative framework, communication activities can still be implemented on the basis of a joint communication plan, but the budget execution will remain to the Commission.

The Representative of the Lithuanian Presidency recalled the implementation of a wide variety of communication initiatives organized using this partnership model which successfully combined joint efforts in the multi-annual planning and smooth coordination among the three partners.

Moreover, the Presidency informed the WPI about the main findings of informal consultations it had carried out with delegations in cooperation with the General Secretariat of the Council of the Council since the last WPI meeting, which reflect their general disappointment in particular for closing down the MPAs without prior discussion with the partners (MS, institutions, IGI) and with very short notice. The common feeling which emerges from MS' feedback is that the Commission's decision may have an impact on the consistency in communication on EU affairs in many countries, when national budgetary resources (including communication funds) are being rationalised owing to the global crisis.

Therefore the Presidency's representative invited the Commission to reconsider its position and maintain the MPA framework, even if with a limited budget.

The Presidency and several delegations (BE, CZ, HU, D, F, MT, AT, SE, PT, PL, LV, IT and NL) reiterated their concerns about the Commission's approach as emerged in the abovementioned consultations. They also observed that:

- strategic and one-off partnerships do not seem to be a viable solution since they would not enable Member States to operate on equal footing (no longer coordination committees, no indirect management conceded to the Member State, and budget execution would remain to the Commission). Evidence is provided by the fact that:
 - = no "one-off" partnership agreement has been signed so far;
 - = only five "strategic" partnership agreements were concluded with MS, two of which envisaged to evolve into the MPA format which was deemed offering a more cooperative framework and more funds;
- the timing of Commission's approach is very inappropriate since management partnership agreements were expected to play an important role in the communication strategy to raise citizen's interest and awareness in view of the European elections 2014; they also enabled to communicate successfully in time of decreasing support and lack of knowledge on the EU's added value;
- it is not clear on which basis the Commission does not deem management partnership agreements cost-effective, since all national evaluations, which were carried out by external bodies, have so far shown positive results; and their added value was also measured through their role as catalyzer in the improvement of cooperation among the national and institutional partners;
- irrespective of the ongoing budget exercise and final decision on the MPAs, it would be advisable for the WPI to engage in 2014 in an indepth debate on the future cooperation in the field of EU communication.

In reply to delegations' interventions, the Commission representative indicated that pursuing MPAs with a reduced budget is not viable, since operational costs would exceed the amount allocated to the implementation of communication activities. He also informed the WPI that:

- the results of the on-going horizontal evaluation of MPAs will be available in November and will be circulated to delegations;
- the agenda of the next CEP ("Communicating Europe in Partnership") meeting foreseen in Brussels on 27 November will include a discussion on possible alternative partnership models.

As summarized by the Chair, discussion highlighted the following aspects:

- the WPI, which is the appropriate platform to develop discussion on this communication topic of common interest for MS, has taken note of delegations' disappointment with the Commission's decision to discontinue the Management Partnerships, which was taken unilaterally and irrespective of the on-going budget exercise and does not seem to be supported by the individual MPAs evaluations carried out at the end of each agreement;
- many delegations expressed their concerns as this decision puts in question years of cooperation. Organisational structures (i.e. human resources) were put in place to ensure the smooth running of the MPAs implementation. This is even more complicated since, in times of crisis, governmental funds are subject to important cuts. Consequently, communication on EU affairs may be seriously hampered in many countries, just on the eve of the European elections;
- the WPI encourages the Commission to propose concrete alternatives to minimize the impact of its decision on the cooperation with Member States and to safeguard interinstitutional cooperation.

The Chair:

- informed delegations that the next WPI meeting foreseen on 28 October - one week before the next IGI meeting - will to carry out an in-depth analysis of the concrete impact of the Commission's decision and study more closely all viable options to maintain and enhance cooperation;
- invited delegations to continue to carry out consultations with the Presidency and the General Secretariat of the Council of the Council in order to analyse jointly the ground for future cooperation in this matter;
- invited the Commission to present at the WPI meeting on 22 November 2013 a comprehensive overview of its communication projects and activities (envisaged within or without the partnership framework) planned for 2014.

4. Any other business

a. Recast of Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents

The Presidency informed the Working Party on recent informal contacts which had taken place with the European Parliament and the Commission. From these contacts, it appeared that one possible option worth pursuing would be to only introduce the provisions of the Lisbon Treaty into Regulation N° 1049/2001. However, there were still serious legal and institutional implications to clarify which were now being examined.

The Presidency indicated that it intended to come back on this item with more substantial information at the meeting of the Working Party in October.

A large number of delegations indicated that they would support the Presidency in its approach.

b. EU public opinion analysis

The European Parliament representative presented the results of the EP Eurobarometer "One year to go until the 2014 European Elections" which was published on 6 September.

This is the first survey in a series of three analyses (the first being dedicated to institutional affairs; the second expected to focus on the economic and social situation; and the third analysis which will be the more traditional "Parlemeter" with a specific focus on the Europeans' opinion of the EP). The other two surveys will be published before the end of October.

c. Club of Venice plenary meeting, Venice, 14-15 November 2013

The General Secretariat of the Council of the Council briefly outlined the programme for the next plenary meeting of the Club of Venice. Main subjects: public communication and behavioural changes (optimizing impact with limited financial and human resources), challenges for government communication (organisation, resources, strategies, etc.) and communicating Europe (focus on the European elections' communication strategy and results of the "Citizens' dialogues").

d. Presentation of the e-book on "civil law", Brussels, 9 October 2013

The General Secretariat of the Council of the Council informed the WPI about the programme of this event, which will take place in the Council's press room from 09:30 to 12:45 and will consist of a plenary session and three thematic panels focussing on family right, business right in the framework of judicial cooperation and other European instruments for justice.

The event will be attended by high personalities in the field of justice, MS counsellors specialists in the domain, EU officials, legal practitioners, journalists, etc. (approx. 100 participants).

e. EESC media seminar, Brussels, 25-26 November 2013

The EESC representative informed delegations about the programme of the next EESC media seminar "Towards the EP elections - communicating the added value of Europe". This year's seminar will examine ways of communicating the added value of European integration ahead of the upcoming European Parliament elections.

More specifically, the seminar will focus on:

- European image-building and branding;
- Communicating the cost of "non-Europe";
- The impact of the changing media landscape on public communications, and
- Electoral communications: European and national.

The draft programme is being finalised and will be shortly distributed through Infonet.
