

## Ministerie van Buitenlandse Zaken

Advisory Council on International Affairs  
attn. Chair of the Advisory Council on International Affairs  
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Date 25 August 2023  
Re Request for advice on promoting sincere cooperation

Dear Professor Koenders,

The treaties of the European Union establish various powers and procedures that make it possible within and among EU institutions to reach decisions for the purpose of achieving the EU's objectives. These powers and procedures are set up in such a way that account can be taken of the possible divergent interests of various actors, so that member states and institutions can advocate for their own national or other interests and still make joint decisions. The principle of sincere cooperation is vital in this regard.

In recent years we have increasingly seen situations in which member states did not, in the eyes of other member states, act in the spirit of the principle of sincere cooperation. These actions usually remain within the limits of the specific powers and procedures concerned. The perceived insincere position may be legally permissible but is politically undesirable because, for instance, it harms the effectiveness of EU decision-making, the proper implementation of EU policy and the unity of the EU. Such behaviour can also be so serious as to result in a violation of the obligation of sincere cooperation under article 4, paragraph 3 of the Treaty on European Union.

Against this backdrop, and taking into account the motion submitted by members of parliament Tom van der Lee *et al.*,<sup>1</sup> the government wishes to obtain greater insight into the following.

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<sup>1</sup> Motion submitted by Van Der Lee et al. (<https://www.tweedekamer.nl/kamerstukken/moties/detail?id=2023Z09377&did=2023D22478>).

First, the government wishes to obtain a better understanding of the reasons for the perceived lack of sincere cooperation. What interests or factors are the basis for this and are those interests and/or factors considered legitimate in the context of European cooperation? What are legitimate national interests and at what point does defending a national interest become insincere cooperation?

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Second, the government wishes to know the ways in which sincere cooperation within the EU can be promoted and what scope there is for the EU and the Netherlands to strengthen the effectiveness of decision-making and the unity of EU policy.

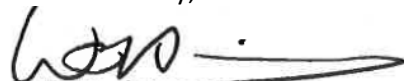
These questions and their answers are expected to offer the EU and the Netherlands tools for promoting sincere cooperation within the EU and strengthening unity. This is relevant for the cooperation within the EU today, and for cooperation within the EU of the future, which may include more member states.

All of the above gives rise to the following questions:

- 1) What reasons and/or interests do member states have to act against the spirit of sincere cooperation? Are these reasons and/or interests legitimate in the context of EU cooperation?
- 2) At what point does an insincere position constitute a violation of the obligation of sincere cooperation under article 4, paragraph 3 of the Treaty on European Union?
- 3) What are the consequences of an insincere position by a member state for the effectiveness of decision-making and the unity of EU policy?
- 4) What legal, political and financial scope is there for the EU and/or the Netherlands to promote sincere cooperation within the EU?
- 5) What do the above insights mean for institutional cooperation and decision-making procedures following possible EU enlargement in the future?

I look forward to receiving your advice on these issues.

Yours sincerely,



W.B. Hoekstra

Minister of Foreign Affairs