

Statement of the European Ombudsman P. Nikiforos Diamandouros for the conference "Europe 2020 - the Civic Visions"

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"The European Ombudsman and a Citizens' Europe" is the topic of the special address, sent by the European Ombudsman Mr. P. Nikiforos Diamandouros, for the participants in the "Europe 2020 - the Civic Visions" international conference, held in Sofia, Bulgaria, on 29-30 January 2010.

Introduction

I would like to begin this contribution by congratulating the European Institute Foundation for organising this conference. I have visited Bulgaria many times, both as Greek and as European Ombudsman. I fully support your efforts to encourage citizen engagement and empowerment in the European Union. These are concepts that are central to the work of the European Ombudsman. I also fully applaud your looking to the future, to a vision for the year 2020. With the Treaty of Lisbon having just entered into force, the time is now ripe for such an initiative. In this short contribution, I will explain the role of the European Ombudsman in promoting a Citizens' Europe.

Efforts to build a "Citizens' Europe"

Significant efforts have been made during the last decades to strengthen citizens' rights and to make a reality of a "Citizens' Europe".

The Maastricht Treaty established the concept of citizenship of the European Union. It also introduced the right to complain to the Ombudsman about maladministration in the EU institutions. Union citizens and residents are increasingly aware of this right to complain and are making increasing use of it. This is important as it means they are playing an active role in improving the EU administration and holding the EU institutions and bodies to account.

Of particular importance in terms of European citizenship rights is the right to move and reside freely within the territory of the Member States. According to Eurobarometer surveys, almost 90 % of all European citizens are aware of this right. However, when citizens seek to exercise this right, problems often arise as regards the transfer of social security rights, the recognition of professional qualifications and family reunification, to mention but a few examples.

The Amsterdam Treaty provided for greater transparency in the EU. It said that decisions in the Union should be taken as openly as possible and recognized a right of public access to documents for Union citizens and residents. This was another crucial step towards making the EU more accountable to its citizens.

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And the European institutions themselves have also made great efforts in recent years to help build a "Citizens' Europe". A good example is the Commission's European Citizenship Programme, which promotes the active involvement of citizens and civil society organisations in the European integration process. And of course, the project which you are involved in, that is "Interacting with the European Parliament", should also be mentioned.

While a lot remains to be done, the entry into force of the Lisbon Treaty and, in particular, a legally binding Charter of Fundamental Rights constitutes a big step forward.

The role of the European Ombudsman

The office of the European Ombudsman was established with the specific purpose of helping to bring the European Union closer to its citizens and to give the EU administration a "human face". Citizens, companies, lawyers, associations, NGOs and interest groups have the right to complain about maladministration in the European institutions. The Ombudsman's inquiries concern issues such as lack of transparency, contractual disputes in the framework of EU projects, procedural errors or discrimination. The easiest way to complain is via the electronic complaint form on the Ombudsman's website, which is available in all 23 EU languages, including Bulgarian, and can be accessed at www.ombudsman.europa.eu.

The decisions of the European Ombudsman are not legally binding. His power lies in his ability to persuade the institutions about the correctness of his views whenever he finds maladministration. There are several advantages to the Ombudsman's services as compared to the courts. To begin with, there is no cost to the complainant and the Ombudsman is often quicker than the courts.

The Ombudsman can also be more flexible than the courts. A complainant to the Ombudsman does not have to be personally affected by maladministration. In practice, this means that, for example, a Chamber of Commerce or NGO could lodge a complaint on behalf of one or more individuals affected by maladministration. Whenever the Ombudsman finds maladministration in the EU institutions, he tries to achieve a friendly solution. This gives him the opportunity to ensure a win-win outcome, satisfying both the complainant and the institution involved.

In 2008, by far the most common allegation examined by the European Ombudsman was lack of transparency in the EU administration. This allegation arose in 36% of all inquiries and included refusal of information or documents. Transparency is fundamental to democratic accountability. The citizens of the Union need information about what their institutions have done, what they are doing and what they plan to do. This is essential if citizens are to have confidence in the Union which it so badly needs. Enhancing transparency therefore remains one of the Ombudsman's priorities.

Another core task for the Ombudsman is to promote a culture of service within the EU administration. Shortcomings in the quality of services delivered by public administrations limit the practical benefit that citizens derive from European cooperation. A culture of service includes a commitment to more

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transparency and good administration. Furthermore, the EU administration should explain its work to citizens in plain language and inform citizens about their rights and how to defend those rights.

The Lisbon Treaty and the Charter of Fundamental Rights

The entry into force of the Lisbon Treaty and of a legally binding Charter of Fundamental Rights marks a real step forward in terms of a Citizens' Europe. The Treaty is good for the Union and for its citizens. Not least, it enhances the role of both the European Parliament and national Parliaments, a development which can only serve to strengthen the Union's democratic credentials.

The Treaty also provides for a stronger voice for European citizens. Thanks to the "Citizens' Initiative", one million citizens from a number of Member States will have the possibility to call on the Commission to bring forward new policy proposals. A public consultation on this issue is currently ongoing and much progress is expected under the Spanish Presidency. The Ombudsman expects to intervene in this consultation.

Furthermore, the Treaty provides for greater openness and transparency. The Council shall meet in public, and all EU institutions, bodies, offices and agencies shall conduct their work as openly as possible.

With regard to the Ombudsman's role, the Treaty confirms that the Ombudsman is elected by the European Parliament; an important point as far as his independence is concerned. It also clarifies that the Ombudsman deals with complaints against the Union institutions, bodies, offices or agencies, as opposed to just Community institutions and bodies, which was previously the case.

Making the Charter of Fundamental Rights legally binding gives a strong signal in terms of the importance the Union attaches to citizens' rights. One section of the Charter is entitled 'Citizens' Rights'. It contains, of course, the right to complain to the Ombudsman. It also contains the right to good administration, a right which is at the heart of what the European Ombudsman does. Aspects of the right to good administration which are specifically mentioned include:

- the right to have one's affairs handled "impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union";
- the right of every person to be heard, before any individual measure which would adversely affect him or her is taken;
- the right of every person to have access to his or her file;
- the obligation of the administration to give reasons for its decisions;
- the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties;
- the right to write to the institutions of the Union in one of the Treaty languages and to be provided with an answer in the same language.

To help explain what good administration should mean in practice, the European Ombudsman developed the European Code of Good Administrative Behaviour, which was approved by the European Parliament

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in 2001. The Code explains what the public has the right to expect from the EU institutions and bodies and constitutes a useful guide for civil servants. This Code is available on the Ombudsman's website in the 23 official EU languages.

Remedies

Any discussion of citizens' rights also requires a focus on remedies, for when things go wrong. When problems arise, be it at the EU-level, the national or the local level, it is vital for citizens to know where to turn. However, according to the Eurobarometer, two thirds of the persons interviewed do not feel sufficiently informed about their rights as citizens of the European Union.

The first and most obvious candidate to resolve the problem is, of course, the national, regional or local administrations responsible for putting citizens' EU law rights into practice. Where possible, the administrations themselves should put things right.

If the problem is not resolved at this stage, networks such as SOLVIT are vital. But problems stemming from the incorrect interpretation of legislation, or inadequate implementation, may require the citizen to go further in search of an appropriate remedy.

Understandably, citizens who believe that a Member State is not respecting Union law often seek a remedy at the Union level. Some citizens complain to the European Commission, in its role as guardian of the Treaty. This can eventually lead the Commission to refer the matter to the Court of Justice. Many complainants, however, hope that the Commission will solve their case quickly, without going to Court. Citizens also petition the European Parliament concerning infringements.

What many citizens do not sufficiently know is that they can also turn to a national or regional ombudsman if they have problems exercising their rights under EU law. The European Ombudsman co-operates closely with his colleagues in the Member States to ensure that citizens' complaints about EU law are dealt with promptly and effectively.

To help individuals find the right body to address when they have a problem, the European Ombudsman launched an interactive guide on his website at the start of 2009. This guide has proved extremely useful in helping to direct people to the right complaint-handling body. In its first full year of operation, over 29 000 people received advice through the guide. It is available in all 23 EU languages at www.ombudsman.europa.eu and I encourage you to consult it.

Conclusion

The European Ombudsman is committed to ensuring that citizens' rights and interests are at the forefront of developments in the Union, not just in rhetoric but in reality. The Ombudsman remains deeply convinced that success in this difficult task is possible only when all levels work together, that is, European, national, regional and local. It is crucial that these levels collaborate and co-ordinate

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effectively and direct their efforts towards the common goal of better service for the European citizens and the creation of a real "Citizens' Europe".