

"A more open and accountable EU administration - the next steps for the Commission, the Parliament and the Ombudsman"

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Introductory Remarks by the European Ombudsman, P. Nikiforos Diamandouros, at the Press Seminar to Mark the 10th Anniversary of the European Ombudsman Institution Brussels, 6 December 2005

1 Introduction

Thank you, Mr White, for your introduction and many thanks to the European Journalism Centre for agreeing to co-host this event with the Ombudsman.

I am delighted to have the opportunity to meet with you today to discuss the next steps for a more open and accountable EU administration.

As you know, the European Ombudsman institution marks its tenth anniversary this year. Since 1995, we have dealt with over 20,000 complaints and opened more than 2,750 inquiries.

We receive very few complaints from journalists - less than 1% of those 20,000. This does not come as a great surprise. Your deadlines tend to be in terms of hours; the Ombudsman's procedures - while relatively fast when compared with other remedies - take a good deal longer.

Yet some of our more high profile cases have involved members of the press who have used their right to complain to call the institutions to account, to shine a light on how they function, to uncover administrative irregularities.

Complaints are the lifeblood of an ombudsman. They give us an insight into what is going wrong in the public administration and help us put things right.

So we are keen to raise awareness about the right to complain. Our second session this afternoon, which takes the form of a public workshop, will focus more specifically on this question and I hope that some of you will be able to attend that session also.

For now, we are focusing on the first half of the equation, namely 10 years, 20,000 complaints -



too many?, and more specifically on the need to promote a more open and accountable EU administration. There is still considerable room for improvement and I look forward to hearing your views on this.

Why openness and accountability?

We decided to focus on openness and accountability for a number of reasons.

The highest proportion of inquiries carried out by the Ombudsman - over one-fifth of all inquiries - still concern transparency. So problems remain.

Over the past ten years, the Ombudsman has submitted twelve special reports to the European Parliament, no fewer than eight of which have dealt with transparency issues. So the problems are often serious. A special report is the Ombudsman's ultimate weapon and is presented only in relation to important matters. My most recent Special Report called on the Council to review its refusal to decide to meet publicly whenever it is acting in its legislative capacity.

On the other hand, some of our greatest successes have been in this area. The Ombudsman's very first own-initiative inquiry - in June 1996 - concerned the issue of public access to documents held by the EU institutions and bodies. As a result, 13 of the 14 Community bodies adopted rules governing public access to their documents. (The 14th body had already adopted rules.) Rules for access to the Commission, Parliament and Council documents were subsequently adopted, following the entry into force of the Treaty of Amsterdam. I am sure that Michael Cashman, co-Rapporteur on Regulation 1049/2001 on public access to documents, will go into more detail on this subject.

We could also mention the adoption of the European Code of Good Administrative Behaviour - another positive outcome of an own-initiative inquiry carried out by the Ombudsman. This makes for a more open and accountable administration and brings us closer to realising the citizens' fundamental right to good administration, contained in Article 41 of the EU Charter.

The past ten years

So, increasing transparency and accountability have been a priority for the European Ombudsman over the past ten years.

In the beginning, the Ombudsman had to struggle to have his views on transparency recognised by the other institutions and bodies, as they often went against the ruling policy or practice or, more broadly, administrative culture. This was also due to the fact that the first European Ombudsman came from a Member State - Finland - with a long tradition in openness in the public administration, having had an ombudsman watching over the administration since 1919.

But with carefully considered and formulated decisions and on the basis of good collaboration



with all the EU institutions, the Ombudsman has managed to gain respect and ensure very high compliance with his recommendations, despite the fact that an ombudsman's decisions, by definition, are not legally binding on the parties.

Whether in terms of a well-functioning set of rules on access to documents, clearer provisions in contracts and calls for tender, clarification of the rules on freedom of expression of officials, more open recruitment procedures, a Code of Good Administrative Behaviour, much has been done to bring about a more open and accountable EU administration.

Looking to the future

But there is still work to do. As Ombudsman, I will continue to consider this a priority, as we head into our second decade and look forward to working closely with the EU institutions in this regard.

I have offered my services to Commission Vice-President Kallas in carrying out the European Transparency Initiative. I am delighted that Derk-Jan Eppink from his Cabinet is here to talk about this Initiative, the overriding objective of which is a more open and accountable administration. We are keen to hear more, particularly in light of the fact that a Green Paper should be published at the beginning of 2006.

Among the key concerns of the Commission Vice-President is of course the need to fight fraud and combat corruption. An open and transparent public administration has to answer for its actions. It cannot hide corrupt practices.

With this in mind, I have suggested that a natural complement to the Transparency Initiative would be to ensure that all EU institutions, bodies, offices and agencies are subject to a uniform set of principles, such as those set out in the European Code of Good Administrative Behaviour. Applying these principles helps combat corruption. Rules on how to handle potential conflicts of interest help avoid confusion about what is legitimate and what is not.

Michael Cashman has done tremendous work in the field of transparency over the years. I look forward to hearing his views on the experience with the legal framework governing access to documents - Regulation 1049/2001 on which he was co-Rapporteur. As the current Rapporteur on Parliament's own-initiative report on the revision of this Regulation, he will surely share his views with us on the changes he believes are necessary to best promote an EU where decisions are taken as "openly as possible and as closely as possible to the citizen".

My analysis is that the coming into force of Regulation 1049/2001 has significantly clarified matters for all parties concerned. As Ombudsman, I am guided by the philosophy that the exceptions laid down in the Regulation should be interpreted and applied restrictively so as not to frustrate the application of the general principle of giving the public the widest possible access to documents.



Just recently I called on the Commission to review a decision to refuse to grant access to documents related to a tender procedure. The Commission refused access on the basis of the exception covering the protection of commercial interests but there is reason to believe that access to some of the documents could be provided.

It is clear that there is still work to do in terms of promoting a genuine culture of transparency in the institutions. Sometimes the institutions could go further, but choose not to. I have already mentioned the Council legislating behind closed doors and have to say that I am greatly encouraged by the efforts of the UK Presidency to bring this to an end.

To take another example: to my mind, there is scope for greater transparency in the Article 226 procedure, whereby the European Commission supervises Member States' application of EU law. I have received many complaints from citizens who are dissatisfied at what they perceive as excessive secrecy in the procedure. This suggests the existence of considerable room for improvement.

Someone who I am sure will have many suggestions for improving transparency and accountability in the EU administration is Tony Bunyan, who has kindly agreed to speak here from the NGO perspective. As Aidan White mentioned, Tony Bunyan has brought eight successful cases to the Ombudsman over the past decade, most notably concerning access to documents in the field of justice and home affairs. His complaints have led to greater openness in this very important area, helping EU citizens understand the decisions that are being taken in their name and making the workings of the institutions more accessible to everyone.

Thanks also to Tim King who is here today to give us the journalist's point of view. The media perspective is vital. You use the services of the EU institutions on a daily basis - you are best placed to tell us how the system is working and what needs to be improved.

An open, high quality and well-functioning EU administration is of particular importance to you to be able to carry out your work effectively. As Ombudsman, it is a goal that I strive for daily and I look forward to hearing your views on how I can best go about it.

Thank you very much for your attention.