

Open dialogue between institutions and citizens – the way forward

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Open dialogue between institutions and citizens – the way forward Final event, following a series of workshops, organised by the Austrian Institute for European Law and Policy and CEPS Brussels, 14 March 2012, 12.00 - 15.00 **Keynote speech by P. N. Diamandouros, European Ombudsman**

Introduction

Ladies and Gentlemen! I would like to start by congratulating the organisers of this series of workshops on "Open dialogue between the institutions and citizens" for their important initiative. Prof. Pichler and the Austrian Institute for European Law and Policy, in cooperation with the Centre for European Policy Studies, have been very successful in energising the debate on this new provision of the Lisbon Treaty and on how the dialogue could or should be undertaken with different segments of civil society and individual citizens.

Thank you very much for inviting me to this final event in order to share with you some thoughts about the "way forward" as regards this important issue. I am also delighted that the Commission's Bureau of European Policy Advisers is present today.

The EU institutions' obligation to "maintain an open, transparent and regular dialogue with representative associations and civil society", enshrined in Article 11(2) of the TEU, is indeed a crucial step forward on the long road to strengthening the right of citizens and associations to participate in the democratic life of the European Union.

In the current economic and political crisis, this dialogue becomes even more important. If the EU institutions do not do their utmost to take citizens' concerns, opinions, and suggestions into account, their trust in the European Union will decrease further.

To be fair, all EU institutions are already making efforts to engage in a dialogue with civil society, and indeed began doing so well before the Lisbon Treaty came into force. I know that during the workshops there were differing views on which institutions do better than others in this respect, but I will not enter into this debate at this point.



The very "raison d'être" of institutions like the Committee of the Regions and the European Economic and Social Committee, as well as the Petitions Committee of the European Parliament is in fact to engage actively in dialogue with civil society and individuals. Furthermore, the European Commission has made an impressive effort in recent years to conduct a regular dialogue with all segments of civil society.

My own institution was also established with an eye to, among others, fostering this dialogue and to providing a "human face" to whom European citizens may turn when they encounter problems with the EU administration. There are, therefore, many mechanisms for dialogue and citizen participation in place, which need to be extended and further developed.

In my speech, I would like to take a closer look at the possibilities which the Lisbon Treaty and the Charter of Fundamental Rights foresee to allow for new ways to achieve dialogue and citizens' participation. This clearly goes beyond Article 11(2) of the TEU. I would also like to look into the important role that the principle of transparency has to play in this regard. Without transparency and openness, a genuine dialogue is not possible. I will conclude with the challenges we are facing and how we can all contribute to overcoming them.

The Lisbon Treaty and the Charter of Fundamental Rights

Holding a "regular dialogue" implies engaging in a genuine debate on policy with representative organisations and civil society, which, in addition to potentially supporting the institutions' initiatives, may well criticise or even oppose them. Beyond Article 11(2), both the Lisbon Treaty and the Charter of Fundamental Rights contain other important new provisions which are complementary or even constitute preconditions to the obligation to engage in an open dialogue. In my view, it is important to take these provisions into account in today's debate.

Citizens' participation

First of all, in the context of civil society's participation, it is important to note that the Lisbon Treaty reinforces the powers of both the European Parliament and national parliaments in the law-making process. The greater role for national parliaments gives citizens and organised civil society at the Member State level the opportunity also to be involved in Union law-making within their national democratic framework, where some of them may feel better able to participate than at the Union level.

Moreover, the European Commission must carry out broad consultations with parties concerned in order to ensure that the Union's actions are coherent and transparent. The Commission is already undertaking great efforts in its public consultations, with a view to allowing citizens, associations, and other stakeholders to participate in the EU's decision-making process.

There is, however, room for improvement and I know that problems with these consultations



have been raised in the workshops. To give an example: I investigated a complaint about the fact that many public consultation documents are only available in English or in a limited number of EU languages, even if they are intended for the general public.

I concluded after my investigation that European citizens cannot be expected to participate in a consultation which they are unable to understand. Multilingualism is essential for citizens to exercise their right to participate in the democratic life of the EU, which is guaranteed by the Lisbon Treaty. I called on the Commission to revise its restrictive language policy and to publish its public consultation documents in all 23 EU languages or to at least provide translations **upon request**.

I am aware that multilingualism puts a heavy burden on the EU administration and its limited resources. However, I am persuaded that it forms an essential part of the EU's ability to engage in a fruitful dialogue with its citizens. If the EU institutions want to be seen as engaging in a sincere dialogue with citizens and civil society, they have no choice but to take this important principle into account.

The European Citizens' Initiative

Another crucial instrument for future citizens' participation, deriving from the Lisbon Treaty, is obviously the European Citizens' Initiative which has been discussed extensively in the workshops.

Thanks to this initiative, which will be launched in two weeks' time, one million citizens from at least seven Member States will have the possibility to call on the Commission to bring forward new legislative proposals. It should make a vital contribution to the empowerment of European citizens and is a concrete example of how to bring Europe closer to its citizens.

The Ombudsman will be an important redress mechanism for those individuals and organisations who are not satisfied with the way that their citizens' initiatives have been handled by the EU administration.

To give some examples of potential concerns: The Commission must decide within two months whether it will register an initiative. Problems could include failure to reply to organisations wishing to register an initiative, delayed replies, or lack of transparency.

Furthermore, the Commission can refuse to register an initiative, for example because the field of action does not fall within the competence of the EU. Organisers may challenge this decision in a complaint to the Ombudsman, as well as by going to court.

The Commission has three months to examine an initiative which has received one million signatures and to explain which actions it will take. The Ombudsman could examine whether the Commission's conclusions are reasonable and thoroughly explained.



It is important to point out what the Ombudsman cannot do in this area. Specifically, the Ombudsman cannot examine the substantive follow-up which the Commission decides to give to citizens' initiatives. This is, rather, a political matter for the European Parliament to monitor.

What is civil society?

I know that during the debates in the workshops the question has been raised about the definition of civil society and which representative associations should be involved in dialogue and to what extent. In my view, **all** segments of civil society, be they NGOs, businesses, religious or philosophical organisations, or any other interest representatives, as well as individual citizens, have to be heard.

I agree that it is very difficult in practice to give all segments of civil society an equal say in the different ways that the EU institutions conduct their dialogues. However, all EU institutions have to address this problem, establish clear rules as to whom they are consulting, and define how they propose to maintain a balance between different interest groups.

Openness and transparency

This brings me to the important area of transparency and openness. Without transparency in the work and decision-making of the EU institutions, no genuine dialogue or citizens' participation can take place – it constitutes a precondition for this very dialogue. I should stress that in recent years, the EU institutions have done a lot to improve transparency. The Commission's Transparency Initiative and the introduction of the Transparency Register are two examples, but there are many more to which I could refer. A lot remains to be done, however.

Together with the European Parliament, the Ombudsman recently commissioned a Special Eurobarometer on citizens' rights and the performance of the EU administration. Of the persons questioned in this survey, 42% were not satisfied with the level of transparency in the EU administration.

This coincides with my own experience: By far the most common allegation examined by the Ombudsman is lack of transparency in the EU administration. This allegation forms the basis for more than one third of **all** inquiries and includes refusal of information or access to documents. I remain very concerned about the findings of the survey and the consistently high number of transparency-related complaints, since an accountable and transparent EU administration is key to building citizens' trust in the EU.

A range of articles in the Lisbon Treaty now provides for greater transparency in the activities of EU institutions. To give one example, the Treaty includes a provision for the Council to meet in public when it deliberates and decides on draft legislation. I have long argued that full transparency of the legislative process in the Council would strengthen both national and Union citizenship. It would let Europeans see what the governments they have elected as national



citizens are doing at the European level. It would also allow them, as Union citizens, to monitor more effectively the work of a vital EU institution, thereby promoting accountability.

The Treaty also **requires** other Union institutions and bodies to conduct their work as openly as possible, in order to promote good governance and ensure the participation of civil society.

Article 42 of the Charter of Fundamental Rights is especially important in this context. It provides that citizens shall have a right of access to the documents of the Union institutions. This constitutes a significant improvement with respect to past practice, since it extends the right of access **not only** to documents held by the European Parliament, Council, and Commission, **but** also to those in the possession of **all other** EU institutions, bodies, offices, and agencies, including, for the first time, the European Council.

I am regularly calling for more pro-active transparency in the EU institutions and bodies. In my view, good administration includes, for example, having public access to documents in mind at the moment documents are drafted. The drafting process should aim to ensure that citizens, organisations, and businesses can have the widest possible access. Another important consideration when we talk of pro-activity is the need to create useful, citizen-friendly, online registers of documents that not only inform citizens of the documents available, **but**, wherever possible, make those documents directly accessible through a link.

Only if civil society has the broadest possible access to information about EU policy making will it be in a position to enter into a meaningful dialogue with the institutions.

The Ombudsman and Article 11(2) of the TEU

Let me now come back to Article 11(2) of the TEU on the open dialogue between citizens and the institutions. From the Ombudsman's perspective, it is clear that, as a matter of good administration, the institutions should be able to point to concrete measures that are properly and effectively implemented.

I regard the complaints that I receive from citizens and associations as important indicators of whether certain Treaty provisions or other rules are properly implemented. As yet, we have **not** received any complaints specifically based on Article 11 TEU, though we have dealt, as I mentioned, with complaints about the Commission's public consultations.

The Ombudsman is, however, currently dealing with a complaint from the European Humanist Federation based on Article 17(3) of the Treaty on the Functioning of the European Union, which requires "*an open, transparent and regular dialogue*" with churches, religious associations or communities, philosophical and non-confessional organisations. In the framework of our inquiry, we have asked the Commission to comment on its understanding of the relationship between the more general provisions of Article 11 TEU and Article 17(3) TFEU.

We have just received the Commission's opinion concerning this case and, as the next step, the



complainant will be invited to comment on it.

These concrete cases about the implementation of Article 11 and Article 17 are extremely important, **not only** for **all** segments of civil society **but also** for the EU institutions, in order to implement the obligation to conduct an open dialogue as fairly and non-discriminatorily as possible. This is still work in progress.

Lack of information

To sum up: The Treaty and Charter provisions on dialogue, transparency, and citizens' participation **are** operational and are being implemented in a progressively **positive** way. **However**, the biggest problem remains that most European citizens are still not aware of these provisions. I will give you just one figure by way of example: In the special Eurobarometer survey that I mentioned earlier, more than 70% of the respondents did not feel informed about the Charter, and a further 13% had never even heard of it. A similar situation can safely be assumed for the Treaty provisions on dialogue and citizens' participation.

I know that the challenge of how to inform and involve civil society and citizens in the Member States was widely discussed in the workshops.

The EU institutions obviously have an important role to play here and they already do, for example via the European Commission and Parliament offices in the Member States, info points, and networks, as well as through their campaigns to reach out via traditional media and social media. It is also important to stress the significant contributions of the European Parliament, and especially its Petitions Committee, the Committee of the Regions, and the European Economic and Social Committee, with their direct links to civil society and citizens in the Member States.

The European Network of Ombudsmen, which comprises all regional and national ombudsmen in the Member States as well as the European Ombudsman and the Parliament's Petitions Committee, also has to increase its efforts to inform citizens about their rights.

My conviction is, however, that the EU institutions cannot and should not do this alone. All segments of civil society should undertake even greater efforts to inform their members and audiences. They are crucial multipliers at the local, regional, and national levels, as they have the insight into the often complex EU decision-making processes that many individual EU citizens lack.

Furthermore, they know the needs and concerns of their audiences and have the credibility to act as crucial points of information when it comes to dialogue and citizens' participation at the EU level. During the workshops, many examples of excellent civil society initiatives were mentioned, such as ECAS's Civil Society House which will serve as a one-stop-shop for civil society and citizens in their dealings with the EU institutions.



In my view, the EU institutions and civil society organisations should not shy away from each other and refer only to the institutionalised dialogue that is already taking place, but should rather unite their efforts in getting crucial messages out.

During the workshops, you also discussed the key role that social media and other new electronic forms of citizens' participation have to play. I know from my own institution's experience how difficult it is to communicate in 23 languages and to be up-to-date as regards the latest developments on Twitter or Facebook. We are only now starting to develop a social media strategy. Nevertheless, I also know that many civil society organisations make excellent use of social media and other means of modern communication. We need that knowledge to engage citizens in the dialogue we are talking about today.

Conclusion

Let me conclude. I think we can **all** agree that important mechanisms for the dialogue between civil society and citizens on the one hand, and the EU institutions on the other hand **are already** in place. Many of them could, however, be used more, such as Parliament's Petitions Committee, the Ombudsman's services, or the possibility to lodge infringement complaints with the Commission. All of these procedures are open to every European citizen.

The Lisbon Treaty and the Charter of Fundamental Rights have added more provisions to increase dialogue and citizens' participation, such as Article 11(2), the European Citizens' Initiative, and enhanced openness and transparency in the EU decision-making process. Most of these mechanisms are already being used, but mainly by those civil society representatives who are involved in EU policies and know the complex decision making procedures.

However, we will not get a stronger involvement of European civil society at the local, regional, and national levels if we do not manage to find better ways to inform the European public about their existence.

Without a joint effort, by the EU institutions on the one hand and civil society organisations on the other, we will, not be able to achieve more citizens' involvement. If we fail, it would have a very negative effect on the already wide gap between the EU and its citizens.

I think this series of events has pointed to many ways in which the dialogue could be improved and where the concrete problems are.

It is now the responsibility of us all to live up to the criticism, praise, suggestions, and innovative ideas which resulted from these fruitful debates and to turn them into an effective reality.

Thank you very much!