

European Ombudsman address - Annual Irish Speakers Series at the Central European University

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Good evening everyone and let me first say how delighted I am to be in this beautiful university in beautiful Budapest and I thank Ambassador Kelly and the Irish Embassy for the invitation, and President Ignatieff and the Central European University for hosting the event.

I have no remit over universities in member states but I do know that when the history of this period is written, that what the President has called your 'little local difficulty' will be included. I wish you well and I acknowledge the value and the challenge of what you do as a vital part of the democratic infrastructure.

I want to share first a brief personal reflection, as an Irish woman, on my own attitude to the Union given the current focus on nationalism, nativism and particularly the claims that the safest place any citizen can be is in the arms of one's own state.

Ireland joined the EEC in 1973. Conditional on joining was the removal of labour laws that actively discriminated against women, including, most notoriously, the ban on women working in the public service on marriage. The ban was lifted in 1973 and in 1975, the Irish Government was also forced to implement an employment equality bill that it had tried to delay.

Nineteen seventy five was also the year I left school and it was that intervention by an external force in the domestic policy of my own country that liberated my generation of Irish women. When my own state would not protect me, the faceless bureaucrats of Brussels moved to do so instead. I would not be standing here today if that cultural shift around women's place in the public sphere had not been kickstarted by the Union.

I value my Irish identity and citizenship but I am acutely aware of the value of citizenship of a union – imperfect yes – but that seeks to impose classic human rights values on states unwilling to do so on their own.

My country at the time was deeply conservative, and the life chances for women were limited. Union membership brought us into a world that did not see us - as our State saw us - as second class. I have never lost either my sense of gratitude or my sadness for all the women who were born too soon to benefit.



And so now, as European Ombudsman, my role is to continue to ensure that the Union's institutions, agencies and bodies continue to do that work – to uphold those foundational Treaty values in the way they carry out their work.

The Ombudsman is essentially a soft power institution that operates in the area of general administrative law but more particularly in the realm of 'fairness'. Small children instinctively understands 'fairness' without necessarily being able fully to define it. So too does an Ombudsman intuit unfairness when an action offends against – in the case of the EU - the Treaty principles of justice, equality and the rule of law.

Citizens have a Treaty right to complain to the Ombudsman and all of the EU's institutions bodies and agencies come under my remit. The office was created alongside the creation of EU citizenship in 1992 with all of the rights that flow from that.

Complaints come from individuals, from civil society, from business, from EU staff, from elected representatives.

The vast majority of my recommendations are accepted and I have generally unrestricted access to relevant EU files and documents. Very often, the sanction is the investigation itself.

Complaints range from simple administrative failures, to allegations of conflicts of interest, breaches of the Charter of Fundamental Rights, the failure to act in infringement cases, harassment procedures, contract and grant disputes, the transparency of the legislative process among others.

Brussels is now a global centre for lobbying and many complaints concern the influencing of EU law making. The revolving door between the EU administration and global corporations affected by EU regulation is an active one and trying to protect the public interest from the trading of insider networks is one aspect of my work.

A German newspaper recently described my job as the hardest one in the EU. It isn't but the reference reflected the challenge of sensitive cases such as the controversial appointment last year of the Secretary General of the Commission and the Commission response a few years earlier to the decision by former Commission President Barroso to accept a position with Goldman Sachs bank.

The first case was controversial because the appointment process stretched the parameters of the law, the second because of the role that Goldman Sachs had played in the financial crises on both sides of the Atlantic.

Both cases were fundamentally about the links between certain decisions made in Brussels and negative outcomes elsewhere – such as giving Eurosceptics the opportunity to attack the EU, which they promptly did. It is hard for the EU to criticise member states for ethical breaches if it doesn't adopt the highest standards itself.



As Ombudsman, I have a wide perspective on the EU, and particularly from the perspective of the EU citizen aware therefore of the much talked about gap between the EU of Brussels and the EU that many citizens see.

The gap has become a cliché of the Union but as we approach European Parliament elections this month, the election of a new Commission President to replace Jean Claude Juncker, the appointment of a new Commission, and a new European Council President to replace Donald Tusk, it is worth asking what citizens see when they see Europe.

Judging from recent polling, it seems that they like what they see. Support for EU membership is at a historically high level and no other country appears to be dashing towards the exit door, suggesting that Brexit has cemented rather than fractured EU cohesion.

But while the figures are positive, they do not reveal the internal tensions as between the institutional EU and member states testing the terms of that membership. It is possible simultaneously to value EU membership yet reject parts of the contract that underpins it.

What the polls do measure is frequently an emotional response to the EU and one often determined by domestic rather than EU politics.

Many people couldn't care less about the EU machinery as such, rarely internalising what they see as an abstraction. They do not wake in the morning worrying about the institutional equilibrium of Brussels, or whether a new file is moving slowly or quickly through the 'comitology' machine.

The felt connection between their lives and the decisions taken at EU level is limited, so when Brussels – in the form of a crisis – grabs their attention – it is the emotional response to that moment that shapes their thinking, and not a view based on years of active attention.

The latest Eurobarometer poll for example shows a significant drop in general citizen concern about immigration and terrorism as compared with the years 2015 and 2016, the drop I suspect fundamentally down to imagery.

Images of migrants and refugees arriving into Budapest train station are no longer there, nor of people attempting to cut through barbed wire as they tried to cross land borders into the EU, nor have we seen recent images of the dead children of those refugees washed up on Mediterranean beaches.

Out of sight, out of mind although political rhetoric continues to fill the vacuum left by the actual immigrants, thus fuelling populist agendas.

But those images were still fresh in 2016 when the Brexit referendum was held. It also took place just three months after the Brussels terrorist attacks, seven months after the Bataclan massacre in Paris, and some 18 months after the murderous attack on the Charlie Hebdo office in Paris.



Modern media technologies now allow us to witness those events with unprecedented immediacy, even in real time, destroying the emotional, protective distance of a pre digital era.

So on that day in June, when the UK voted to leave, the EU was not projecting a place of calm, of control, but rather of chaos and of death – a projection expertly exploited by leave campaigners. Within a year, the peak levels of concern had already started to abate. What if the referendum had been held then?

But the images of chaotic displacement did not disappear because the refugees and migrants decided to stay in Syria, they changed because the public reaction to those images forced a political reaction, and notably the deal done by the EU with Turkey.

This was supposed to allow for swift returns by those refused asylum in exchange for money, visas and a rebooting of accession talks – a deal described as the EU's loss of geopolitical virginity, or as the balancing of the 'ethic of conviction' with the 'ethic of responsibility' a distinction ascribed to Max Weber.

In this case, it wasn't necessary for EU citizens to know anything about how the EU works, about trilogues and comitology or the difference between the Council and the European Council. All they had to do in part was express domestically a rising preference for Eurosceptic parties and the gap between the citizen and Brussels magically disappeared.

Indeed, when explaining the rather ethically uncomfortable Turkey deal to the European Parliament, Donald Tusk spoke of the dangers 'of the triumph of populism and extremism' if such measures were not taken.

But, three years later, the potential 'triumph of populism and extremism' hasn't yet gone away with the forthcoming European Parliament elections seen as a test of populist strength.

Spanish exceptionalism ended last month when the first far right grouping in several decades gained a toehold in Spanish national politics although the resurgence of the centre left tended to be overlooked.

The populist trend is undeniable, featuring either increased support for populist parties or for a father of the nation figure, promising protection from external and malign forces.

All share a capacity to communicate a strikingly unambiguous and simple message with the Brexit slogan 'Take back control' arguably the most potent.

As President Ignatieff has noted, in a globalised world where outlier countries like China are rising globally, where automation is generating employment panic, the felt absence of control in people's lives, is the highly exploitable red thread running through the populist movement.

Donald Trump displays particular genius in his capacity to intuit this and to fill the gaping hole of



panic with words and actions that mimic empathy and I stress the word 'mimic'.

Populism also involves reimagining the past, reediting often lightly known history. It's a political trick not confined to populists but its capacity to shape shift public opinion is particularly appreciated by them.

On the populist pull of the romanticised past, the American historian and political scientist, Mark Lilla, argues, "Where others see the river of time flowing as it always has, the reactionary sees the debris of paradise drifting past his eyes." Such a figure is animated by "the militancy of his nostalgia".

But it would be wrong to think that populism is simply about nostalgia and questionable assertions of history. Populists in power often do popular things.

A young friend recently told of how her mother – opposed to the populist party currently in power in her country – was having guilty second thoughts, as, following a new law, she found she could retire several years earlier than she had thought.

Even Donald Trump knows that the circus has to be matched with the bread of economic wellbeing and jobs. The trick for the populists is to ensure that public support for popular acts overcomes distaste for the parallel assaults at times on democratic and human rights values.

Increasingly we also see the populist polarisation of issues that should be of common concern, such as climate breakdown as though climate disaster will somehow be politically selective.

The rise of protectionist, isolationist and nationalist rhetoric has also – logically – prompted increased tolerance of xenophobia, of racism, of islamophobia, of anti semitism. What we thought was a settled rejection of those phobias and isms is not the case.

The threats to liberal democracy, founded on the rule of law, are obvious. Democracy rarely disappears overnight but rather by subtle and slow attrition and often under the guise of protecting national sovereignty or even democracy itself. Democratic institutions – the media, the courts, universities - the institutions that provide the democratic ballast of checks and balances are now demonised as 'enemies of the people'.

So how will all of this play out in the European elections? Will populism be contained? How will the EU itself be shaped by the political preferences of voters not always aware of the impact of their votes.

Currently, the centre parties of EPP and Socialists are predicted collectively to lose some ground and may need the support of Liberals and Greens to drive agendas through.

Eurosceptic groups could form the fourth largest parliamentary grouping although the extent to which they can find a sustainable and coherent programme is unclear. Fragmentation is likely.



The irritant – and especially to French President Macron, the EU leader who has expressed the greatest concern about the UK's extended time in the Union – is that the UK will now, almost certainly, contest the elections.

The pro EU parties in the UK are divided while Nigel Farage's new Brexit party is succeeding with its simple message of 'betrayal by elites'. Both centre parties lost significant seats at last week's local elections in the UK and Brexit seems as intractable as ever. How will the domestic chaos of this now essentially hybrid member state, affect the short to medium planning for the EU?

The impact for citizens on choices to be made this year will also depend on whether many continue to view the European Parliament elections as an irrelevance or whether they will actively engage and therefore have a meaningful say in the future shaping of the Union.

In my work I have tried to highlight the failure to give citizens the tools properly to engage in that way through the lack of transparency of decision making at Council level – where national governments consider new laws.

I have argued – in a report overwhelmingly endorsed by the European Parliament - that unless ordinary citizens are enabled to see what actually happens in Brussels – the role played not by bureaucrats but by their own MEPs and Ministers – that this comprehension gap may continue to fuel an agenda hostile to the continued existence of the EU itself.

Election polls show low levels of awareness. The Spitzenkandidaten – or lead candidate process – whereby the candidate who can form a majority in the parliament becomes the parliament choice for Commission President – continues, but it's unfortunately still unlikely that many voters know of the link between their vote and the election of the Commission President.

The Commission and Parliament have made one simple suggestion: to put the EU party logo next to the national party logo on the ballot papers for the elections but many national governments were not enthusiastic.

Citizen awareness is, arguably, a decade behind. The choice of Commission President has consequences that flow from the Commission buildings in Brussels right down to the smallest towns and villages of every member state, yet how many citizens know?

The elections will be relevant nonetheless because populist parties will stamp that relevance on them, using victory there as leverage domestically. Victory for a UK anti EU party in the 2014 EP elections, prompted David Cameron to hold a referendum two years later. Germany's right wing AfD party also entered national politics through its performance in the 2014 EP elections.

The outcome for President Macron's candidates, may also impact on French domestic politics. Parliament's real power has increased significantly, but its elections are still sometimes seen as proxy ones, used for unintended ends and with unintended consequences.



Yet despite all of this, the EU continues to move forward, continues to strategise around climate breakdown, the rise of China, the digital economy, the taming of the tech giants, possible further enlargement, the unpredictability of the current US administration, and the future of work and employment in the face of increasing automation.

There is relief that the crises of the last few years have not led to the catastrophic outcomes feared but they have changed the EU nonetheless.

In a new book, a former senior Council official Luuk van Middelaar examines how what he calls the improvisational politics of that institution helped to control the financial crisis, the Greek crisis, the migration crisis, and so far the Brexit crisis.

The long-term outcome is unclear, but each one of those crises was tinged by aspects of populism, by ethical challenges for the institutional and political leadership of the EU. Will the actions and ethical compromises forged in these last few years, still seem 'responsible' when history comes to judge?

There is some guilt, yes, about the impact of austerity politics, with election promises now to 'put people ahead of politics', an admission that the citizen was often overlooked when it came to the 'improvisational politics' of the crisis years, opening a door for populists.

Like most of you, I observed the Greek crisis at a distance and understood at one level the pain that many people went through. Some came to me, wondering how they could complain about the Troika, the programme enforcers to the countries most affected by the financial crisis, including Ireland. I had to tell them that as the Troika was not an EU institution as such, it could not be made accountable. This was another gift to populists.

But I think I understood how much the Greek people suffered only when I read an account by an Irish writer of her father's emergency stay in a Greek hospital during the crisis. She spoke of families having to donate blood themselves, of having to provide their own supplies of basic needs, of nurses having to buy with their own money gloves for infection control. Impossible to believe that this was happening in a modern EU state.

I spoke earlier of my own enduring love affair with the EU, but that was then and the real task for the EU is to continue to replicate that transformative moment in the lives of the 18 year olds of 2019 and beyond.

As Ombudsman, I witness on a daily basis the efforts to do so, the largely unseen work of EU civil servants and their institutional leaders. Next month, I will have the very happy task in Brussels of presenting the Ombudsman awards for good administration in recognition of that work.

It is indeed an imperfect Union but the EU still has a great story to tell and it should not leave a distorted telling to others. It needs constantly to show that, at its best, the EU does not remove the protections and benefits of the member state but rather adds to them. The actions therefore



of a humane and reliable friend, and never those of a technocratic, disinterested, stranger.