

Speech by the European Ombudsman, Mr. Jacob Söderman, Meeting with the Committee on Petitions of the Chamber of Deputies, Luxembourg, 27 November 2002

Speech

Madam President, distinguished Members of the Committee!

I would firstly like to express my gratitude to you, Madam President, for giving me the opportunity to address the members of the Committee on Petitions of the Chamber of Deputies. I am happy that you found time to receive me to discuss our co-operation and to look into how the Convention on the future of Europe affects our work.

I think it is important to underline that the initiative taken by the President of the Convention, Mr. Giscard d'Estaing, to publish a preliminary draft Constitutional Treaty is very positive. This open procedure invites everyone who is interested in the future of the Union to discuss and to make proposals to the draft Constitutional Treaty. This procedure is much more democratic than before and should be greeted positively.

As you may know, I have the honour of participating in the debates of the European Convention as an observer and I have made some proposals which directly concern the Ombudsman, the right to petition and fundamental rights. I would therefore welcome an exchange of views on these proposals and would also be ready to answer questions about my work as the European Ombudsman.

An Ombudsman in Luxembourg

I know that recently you have devoted time and attention to the possible creation of an Ombudsman office in Luxembourg (1). Having worked as an Ombudsman for more than 13 years - first as a national ombudsman and then as Ombudsman of the European Union - I believe that European citizens should have the right to an extra-judicial remedy when they have a dispute with the public administration. This remedy could be an Ombudsman or a similar body with a constitutional mandate.

It is of course for every Member State to decide itself on the scope and powers of this body, as long as it guarantees the promotion of good administration and the rule of law, thus enhancing relations between the administration and the citizens. In the case of a dispute with a public administration, a body should exist with a remit to solve individual complaints. This body may also take initiatives to promote better administrative procedures and practices.



It is possible to have both a committee on petitions and an ombudsman which co-operate successfully. This is the situation in the European Union where it works clearly to the benefit of the citizens. The committee on petitions, as a political body, should focus on matters of principle where political experience and influence are needed to put things right. The ombudsman should deal, as a rule, with citizens' individual complaints. It is useful for the committee to oversee the work of the ombudsman by dealing with the Annual report and thus giving the ombudsman guidance and advice.

I wish you well with this important initiative in Luxembourg. I hope that you soon join the other 12 Member States with a national ombudsman institution. In Germany and Italy this institution exists on the regional but not on the national level.

Fundamental and Human Rights

The coming Constitutional Treaty should include the fundamental and human rights that the Union should respect in a clear and visible way for European citizens.

The Working Group on the Charter of Fundamental Rights and accession to the European Convention of Human Rights chaired by Commissioner António VITORINO reported to the Convention at the end of October. Its conclusions give hope that a large majority will support a proposal to make it possible for the EU to adhere to the European Convention on Human Rights. To my mind, it would be even better if the Union could adhere to all international human rights instruments, as the UN and ILO at least have adopted some that are relevant for the wellbeing of European citizens.

It also seems likely that the Convention will support the idea of making the Charter, proclaimed at Nice, binding in EU law.

This would represent great progress for the citizens.

Remedies and the Rule of Law

In one of the proposals I made to the European Convention, I suggested an amendment to the Treaty which would confirm the existing co-operation among ombudsmen and Parliamentary bodies dealing with petitions in the Union. The idea is that an effective remedy, in the form of a network of ombudsmen and committees on petitions, should be available for every citizen in the Union. As you all know, Luxembourg has already taken part in this network through this Committee.

European citizens want European law to be correctly applied as a living reality at all levels of the Union. For the rule of law to exist in practice effective remedies must be available if the law is not followed.

According to the present preliminary draft Constitutional treaty, the citizens are not to be informed about the remedies available if European law is not applied properly. There is no mention of the right to go to national Courts, nor of the European or national ombudsmen. In fact, the present provision in the Treaty giving citizens and residents of the Union the right to complain about maladministration in the activities of a Community institution or body seems to



have been forgotten, even though the Ombudsman's office has been operating successfully on behalf of citizens for seven years and now receives more than 2000 complaints a year.

Good administration

Another important point is a commitment to a consistent set of good administrative practices in the EU administration. This is established as a new fundamental right in Article 41 of the Nice Charter.

European citizens in all Member States want a European administration that is open, accountable and service-minded. The present preliminary draft Constitutional Treaty contains some hint of these principles, but there is nothing to remedy the present situation, in which every institution's administration may have a different idea of how to treat citizens. The European Parliament adopted a Code of Good Administrative Behaviour in September 2001 and instructed the Ombudsman to follow the Code in his daily work. It is not yet a binding law, even if its principles are based on the jurisprudence of the Court of Justice of the European Communities.

It would be important to establish in the Constitutional Treaty a clear legal basis for a European administrative law, applying equally to all the Union institutions and bodies.

Ladies and Gentlemen!

I believe that if the above proposals are accepted, it would surely enhance relations between the Union's administration and European citizens.

Thank you for your attention.

(1) Proposition de Loi n°4798, Projet de Loi n°4832