

## **Speech of the European Ombudsman -Committee on Petitions, introductory remarks by the European Ombudsman, Jacob Söderman, concerning the first mandate**

Speech

Mr Chairman!

Let me begin by saying how grateful I am for the opportunity to address the Committee and to have an exchange of views with you about the Ombudsman's activities during the first mandate, from September 1995 to July 1999. We have published an informal document concerning that mandate so that the Committee can more easily obtain information about the main achievements.

I would also like to use this opportunity to inform you about the present state of the efforts to achieve a Code of Good Administrative Behaviour for the European administration, as originally proposed in the Committee on Petitions' report on its own activities 1996 - 97 by the rapporteur Roy Perry.

The Maastricht Treaty introduced two new, let us say, constitutional remedies for the European citizens: the right to petition the European Parliament and the right to complain to the European Ombudsman. The right to petition, which had previously been exercised on the basis of the Parliament's Rules of Procedure, was formalised in the Treaty. The right to complain to the Ombudsman, already proposed in 1979 by the European Parliament, was a new remedy for the European citizens.

The scope of the right to petition includes all matters within the European Community's fields of activity and at all levels; not only the European level, but also national, regional or municipal administrations in the Member States. Furthermore, the right to petition the European Parliament is not restricted to legal or administrative matters. The citizen can also base a petition on broader moral or political grounds. The possibilities to complain to the Ombudsman are much more limited. The Ombudsman deals only with complaints concerning the activities of the European Community institutions and bodies and his role is to investigate possible instances of maladministration.

It is important to add that the Committee on Petitions has a twofold task. Its first task is to deal with the petitions addressed to the Parliament. Its second task is to be responsible for the



European Parliament's relations with the Ombudsman, dealing above all with the Ombudsman's annual and special reports. This means that all the grievances that the European citizens express by using these two constitutional remedies come before the Committee for possible observations at some stage during the process.

The right to petition the European Parliament and the right to complain to the European Ombudsman together form a unique opportunity to protect and promote the rights of the European citizens. During the first mandate of the European Ombudsman the two independent bodies set up a procedure of co-operation, so as to ensure that the European citizens are aware of the rights that they should enjoy and to increase their possibilities to assert and defend those rights. This co-operation has been carried out in a good and constructive atmosphere and I hope and expect that this will continue.

What have we achieved through this co-operation?

First of all, we have achieved a procedure for dealing with complaints and petitions, so that if the European Ombudsman receives a complaint that is outside his mandate, but could be the subject of a petition he advises the complainant to petition the European Parliament, or if the complainant has given his or her consent, transfers the complaint to the Parliament to be dealt with as a petition. The Committee on Petitions might also transfer a petition to the Ombudsman, if it concerns only possible maladministration in the Community institutions and bodies. The purpose of this procedure is to guarantee a swift and effective assistance to the European citizen. In principle, the co-operation has worked satisfactorily as one can see from the Annual reports of both bodies, but there seems still to be some room for improvement in practice.

Secondly, we have developed a fruitful dialogue through the Committee's reports on the Ombudsman's Annual reports, beginning with the first report by Mrs AHEARN (AR 1995), through the reports of Mr PAPAKYRIAZIS (AR 1996), Mr NEWMAN (AR 1997) and Mrs DE ESTEBAN (1998). For example, the call in the PAPAKYRIAZIS report for a clear definition of the term "maladministration" led me to offer a definition in the Annual Report for 1997. Following Mr NEWMAN's report, the European Parliament adopted a resolution welcoming the definition. In the Parliamentary session the responsible Member of the Commission also welcomed this definition, which is now generally accepted.

The practice of smooth and efficient dealings with the Ombudsman's reports in the Parliament has now been properly and formally established in the Rules of Procedure which expressly provide for the competent Committee (that is to say, this Committee), to deal with all the Ombudsman's reports.

Thirdly, an own initiative inquiry into public access to documents, supported by the Committee through the report of Mrs THORS and subsequently by the European Parliament, has led all the Community institutions and bodies concerned to adopt rules on public access to documents, except for the Court of Justice. The most recent institution to inform the Ombudsman of having adopted appropriate rules was the European Central Bank. Furthermore Europol, which commenced its full operation only in July this year, has informed the Ombudsman that it is



considering adopting Rules on public access to documents before the end of the year.

Fourthly, we have managed to improve the administrative procedure that the European Commission uses in its role as the "Guardian of the Treaty" when dealing with complaints or petitions from European citizens. This procedure has become more open and effective as a result, though there is still some way to go before the citizen is treated as a party in such proceedings, as should be the case in any society where the rule of law prevails.

Finally I come to the idea of a Code of Good Administrative Behaviour, which was first mentioned in the PERRY report on the Committee's activities in 1996-7 and then supported in the NEWMAN report on the Ombudsman's Annual Report 1997 and subsequently in a resolution of the European Parliament based on that report. The European Commission started to draft a Code already in 1997. During the Commission crisis in January - March this year the work was speeded up, but when the Santer Commission collapsed the preparations seem to have become stranded. Considering that this issue is too important for the European citizens to be abandoned, I have prepared a draft Code, which is distributed to you here today and which will soon be available in all Community languages on the Ombudsman's website.

I addressed an own-initiative inquiry to all the Community institutions and bodies to investigate if a Code of Good Administrative behaviour could be adopted in the near future. All responded positively and therefore I have formally recommended that the European Commission, the European Parliament and the Council should adopt the Ombudsman's draft Code or a similar Code before the end of November and that the other institutions and bodies should follow by the end of the year. If the response to this recommendation is unsatisfactory, I will consider making a special report to the European Parliament, so as to place this vital issue before this Committee for any appropriate action.

The substance of the draft Code is based on my experience from four years of dealing with citizens' complaints about alleged maladministration in the activities of Community institutions and bodies. I am sure that adoption of the Code would be a significant step towards a service-minded EU administration since it would inform both civil servants and the European citizens themselves of what service the citizens have a right to expect from the European administration. I therefore place my hope in our co-operation, through which adoption of the Code could be achieved in the near future.

During the first mandate it was possible to set up the European Ombudsman office and achieve the needed co-operation with this Committee and thus with the Parliament and the other Community institutions and bodies. Still one troublesome obstacle remains: that is the European Commission's reluctance to provide, as a matter of routine, all the documents and information needed during the Ombudsman's investigations. In the end, the documents are usually obtained after lengthy argument during which some influential circles in the Commission appear to regard the European Ombudsman more as a suspected criminal than an institution founded by the Treaty to supervise the European administration, with the intention to regain the badly-needed confidence of European citizens towards that administration. It is therefore of utmost importance that the proposals adopted in Mrs DE ESTEBAN's report are promptly pursued in the European



Parliament, with the aim that the Treaty should give the Ombudsman access to all documents and information needed for carrying out inquiries. This right has recently been secured to the new anti-fraud office OLAF. It goes without saying that the Ombudsman and his staff are bound by the same rules of confidentiality as other Community officials, when dealing with classified documents.

For your information, I would like to announce that I have recently prepared a special report concerning the European Commission's practice of refusing to allow candidates in recruitment competitions the possibility to see their assessed written tests. What is at stake here is the confidence of young Europeans who want to serve the European Union that their tests have been assessed properly and fairly. I consider this to be a matter of principle and therefore, as soon as the special report has been translated, I will formally present it to the President of the European Parliament. When the matter comes before this Committee, I hope you will give it due attention.

Mr President!

From the very beginning I have adopted a professional attitude to the task of the European Ombudsman, operating in accordance with the mandate as established by the Treaty and by the Statute which the European Parliament gave to the Ombudsman. I have never forgotten that citizens also have the right to petition the European Parliament, which as the elected representative body at European level is the natural and proper forum for dealing with the political and moral concerns of European citizens. As I have explained in successive Annual Reports, the information activities of my office are mainly targeted to citizens who could really have reason to complain about maladministration in the activities of the Community institutions or bodies. The success of this information campaign is demonstrated by the fact that the proportion of admissible complaints has remained steady, even as the overall number of complaints per month has risen from 71 in 1996, to 99 in 1997, 115 in 1998 and 135 per month so far this year. so far this year.

Mr President!

I would like to thank you and all the members of the Committee for your kind attention and assure you that I am ready to answer any questions that might arise during this exchange of views.