

## **What progress has been made during the last ten years? Speech by P. Nikiforos Diamandouros, European Ombudsman - "International Right to Know Day - EU transparency: Where are we now?"**

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"International Right to Know Day - EU transparency: Where are we now?" Seminar organised by the European Ombudsman Brussels, 28 September 2013, 10.00-12.30 Speech by P. Nikiforos Diamandouros, European Ombudsman What progress has been made during the last ten years?

### **Introduction**

Ladies and Gentlemen! Welcome to this seminar on the occasion of the "International Right to Know Day". It is the fourth time that the European Ombudsman organises such an event, and I am happy that we have managed to turn it into a regular highlight of our outreach activities.

The "International Right to Know Day" constitutes an opportunity to put the spotlight on transparency and accountability around the globe. Both principles go to the heart of what the European Ombudsman does at the EU level, and they are also increasingly recognised world-wide as essential aspects of good governance.

Today is my last working day after having served as European Ombudsman for ten and a half years. Next Monday, on 30 September, my successor, the outgoing Irish Ombudsman Emily O'Reilly, will give her oath of office before the Court of Justice in Luxembourg, before starting work as the new European Ombudsman the following day. I am delighted to have such a highly qualified, experienced, dedicated, and respected successor. I trust that she will continue to lead the institutions along the path towards a more open and accountable EU administration. I am also especially pleased that the next European Ombudsman will be a woman. This is good for the institution and good for citizens.

I am delighted to welcome the Vice-President of the European Parliament, Mr Rainer Wieland, as well as the Vice-President of the Commission, Mr Maroš Šefčovič, to this debate. Both have been strong and supportive partners for my institution and are key players as regards the transparency agendas of their respective institutions.



Let me also welcome Helen Darbishire from Access Info Europe, Paul de Clerck from ALTER-EU, and Doru Frantescu from Vote Watch. All three organisations champion transparency issues from different perspectives and I look forward to hearing their insights. Thank you also to Tim King, the Editor-in-Chief of the European Voice, for chairing this event.

## **The Ombudsman and transparency**

One of the milestones during my ten years in office was the adoption of the Lisbon Treaty and the Charter of Fundamental Rights. They gave a crucial boost to greater transparency in the activities of EU institutions, bodies, offices, and agencies. This included the provision for the Council to meet in public when it deliberates and decides on draft legislation - something I had repeatedly called for. Furthermore, the Union administration has to conduct its 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 for the Ombudsman's work. It provides that citizens shall have a right of access to documents held by all Union institutions, bodies, offices, and agencies, including the European Council.

All of these provisions are crucial for the right to know. European citizens have to be able to see what their governments, the Members of the European Parliament, and the EU institutions are doing at the European level. Thanks to these provisions and thanks to the efforts of the EU institutions, transparency is now much higher on the agenda of the EU administration than ten years ago.

## **Transparency complaints**

A lot remains to be done, however. Every year, I receive around 2 500 complaints from citizens, businesses, NGOs, civil society organisations, and associations. The most common cause of complaint consistently remains lack of transparency in the EU administration.

Last year, transparency-related cases represented one fifth of the inquiries closed. To be fair, although transparency-related complaints remain at the top of the list, their proportion is steadily decreasing. Whereas in 2008 they peaked at 36%, the 2012 figure was, at 21%, the lowest during the past ten years. This is obviously a good sign.

The complaints we keep receiving concern, among others, refusal to give access to documents or information, the composition of the EU institutions' expert, working or stakeholder groups, the Commission and Parliament's joint Transparency Register, and lack of transparency in the procedures concerning EU institutions' decision-making. I am sure we will discuss some of these topics in more detail this morning.

## **Best practice example**



One of my priorities over the last ten years has been to encourage the EU administration to adopt a pro-active transparency policy. My firm view is that the EU institutions should not wait until they receive an access to documents request but should actively anticipate which documents or information are of interest for the public and should make them available immediately.

To give you one best practice example: Over the years we repeatedly received complaints about the European Medicines Agency's refusal to give access to adverse reaction reports, clinical study reports, and other medical data. In most of these cases, the European Ombudsman advised EMA to release the documents. In a major change of policy, in 2010, EMA not only decided to follow the Ombudsman's recommendations; it also overhauled its entire transparency policy with a view to giving European citizens the broadest possible access to all its key documents concerning public health in Europe.

## **How to improve transparency**

Don't get me wrong, the Ombudsman does not promote unconditional transparency. There are cases where secrecy is justified and where I therefore find in favour of the institution complained against.

Overall, however, I believe that we have not yet succeeded in convincing all civil servants and institutions that transparency is the norm and secrecy the exception. Achieving that cultural change and thus creating an open and accountable EU administration is key to building citizens' trust in the European Union.

Over the years, I have repeatedly proposed to establish information officers and citizen-friendly online registers of documents in the EU institutions to ensure that the citizens' right of access to EU documents is smoothly implemented. A lot still remains to be done in this respect.

Last but not least, I was involved in the reform of Regulation 1049/2001 on access to documents. This sadly appears to have been put on ice. I can only appeal to all parties involved that whatever compromise emerges, it should ensure that citizens enjoy more rather than fewer rights to access documents.

## **Conclusion**

To conclude: The right to know is an extremely important right for all European citizens. Only if they feel that the EU administration is transparent, accessible, and accountable will they develop the necessary trust and willingness actively to participate in the democratic life of the Union.

My institution will remain at your disposal to deal with transparency-related cases and to ensure



that the EU administration lives up to the highest standards of transparency. In so doing, it will substantively contribute to the deepening of the rule of law in the European legal order; it will also meaningfully enhance the quality of democracy in the Union. And such improvements, we certainly need.

Thank you very much for your attention.