

European citizens' right to know - complaints about lack of transparency

Speech - **City** Brussels - **Country** Belgium - **Date** 28/09/2010

Introduction

Ladies and Gentlemen! Welcome to this seminar which my office has organised in cooperation with Transparency International. I am delighted to share the podium with Jana Mittermeier, who works for Transparency International here in Brussels. I am also very glad that Christian Linder from the Cabinet of Commission Vice-President Sefcovic has joined us today. Appropriately enough, he is responsible, in the cabinet, for, among others, the European Transparency Initiative which has already produced some important results.

Speaking of Vice-Presidents, we are honoured that Ms Diana Wallis MEP, Vice-President of the European Parliament in matters of Transparency, agreed to join us and to chair our seminar.

I also am pleased that we have Olivier Hoedeman from Corporate Europe Observatory with us here today. The European Ombudsman regularly receives complaints from Corporate Europe Observatory, which help us to identify shortcomings in the EU administration and to advise the EU institutions on how to rectify them.

Why did we organise this event? We were keen to heed the call from access to information advocates to put the spotlight on the "International Right to Know Day" around the globe. And as the debate about access to documents and information is an ongoing one in Brussels, and is particularly important to the Ombudsman's work, we thought it would be fruitful to discuss some of the issues involved with you.

Just one additional note: By sheer co-incidence, today is the first full day of the European Ombudsman's new visual identity. I would like to invite you to have a look at our new logo and new design which you can find on our website and on today's press release.

I will now briefly focus on European citizens' right to know and the complaints the Ombudsman receives about lack of transparency. I would also like to point to the results we have achieved and the things that remain to be done. Finally, I look forward to a lively debate with all of you.



European citizens' right to know

The entry into force of the Treaty of Lisbon and the legally binding Charter of Fundamental Rights mark a crucial stage in the long process of empowering European citizens and other stakeholders. The Charter, in particular, gives a strong signal regarding the importance the Union attaches to citizens' rights.

The section of the Charter entitled 'Citizens' Rights' contains, of course, the right to complain to the Ombudsman. It also contains the right to good administration, a right which lies at the heart of what the Ombudsman does. Elements of the right to good administration which are specifically mentioned in the Charter include the right to have one's affairs handled "impartially, fairly and within a reasonable time" by the EU administration, the right of every person to be heard and the right of every person to have access to his or her file.

A range of other articles in the Lisbon Treaty provide for greater transparency in the activities of EU institutions, bodies, offices, and agencies. They include a provision for the Council to meet in public when it deliberates and decides on draft legislation - something I have repeatedly called for. But the Treaty also requires the Union administration 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 of the Union institutions, bodies, offices and agencies. This constitutes a significant improvement, extending the right of access to not only documents of the European Parliament, Council and Commission but to all EU institutions, bodies, offices, and agencies, including, for the first time, the European Council.

All of these new provisions are crucial for the right to know. European citizens have to be able to see what the governments they have elected as national citizens are doing at the European level. They also have to be able, as Union citizens, to monitor more effectively the work of the EU institutions. Furthermore, they have the right to an open and citizen-friendly EU administration which is committed to a culture of service.

Complaints about lack of transparency

Let me now turn to our complaint statistics. In 2009, by far the most common allegation examined by the Ombudsman was **lack of transparency** in the EU administration. This allegation arose in 36% of all inquiries and included refusal of information or access to documents. It is with a certain degree of concern that I have noted the consistently high number of complaints alleging lack of transparency during the past years. After all, an accountable and transparent EU administration is key to building citizens' trust in the EU.

Let me give you some examples of cases I dealt with concerning lack of transparency: Following complaints I received, I criticised the Commission for failing to set up a comprehensive register of documents, as required under the EU's access to documents rules.



I also criticised the European Parliament for not following transparency rules as regards the disclosure of details of MEPs' allowances. I have noted that, following this inquiry, the Parliament published on its website general information on MEPs' allowances. This is a development which I applaud, although more should be done by Parliament to comply with the highest transparency standards.

In a very recent case, I received a complaint from an Irish citizen whose son had committed suicide after taking an anti-acne medicine. The boy's father asked the European Medicines Agency for access to adverse reaction reports linked to this medicine. EMA initially refused access, arguing that EU access to documents rules do not apply to adverse reaction reports.

I disagreed and called on EMA to reconsider its refusal. EMA accepted my recommendation and announced the release of the reports. EMA also announced that it would overhaul its transparency policy. I very much welcome this constructive approach.

This case shows how important it is for individual citizens to learn about their rights and use them. In the end, everybody benefits from enhanced transparency, both in the important field of public health but also in other areas.

Transparent dialogue with the EU institutions

The Lisbon Treaty also strengthens the right of citizens and associations to participate in the democratic life of the Union. It requires the Union institutions to maintain an open, transparent and regular dialogue with representative organisations and civil society.

It is important to highlight that an "open, transparent and regular dialogue" - as it is laid down in the Treaty - implies a genuine debate on policy, with representative organisations and civil society, which may **criticise** and **oppose** the institutions' initiatives **as well as** support them. I am convinced that this new provision will also have a substantive impact on the Ombudsman's work.

To give you an example: at the start of this year, I opened an investigation into how the Commission conducted a study into the use, for research purposes, of non-human primates, such as chimpanzees. The complaint was submitted by the European Coalition to end Animal Experiments. It alleged that the relevant Commission working group lacked expertise in the area and that it failed to take certain evidence into account. I have not drawn any conclusions on this case yet. But it is clear that it highlights the role that the Ombudsman can play in promoting effective and transparent policy-making in the EU institutions.

High ethical standards in the EU administration

Let me also say a few words about transparency and ethics before Olivier Hoedeman presents



ALTER EU's action plan for transparency and ethics reform in the EU institutions. These two principles obviously go hand in hand. The Ombudsman very much supports adherence to the highest standards of ethics in the EU administration.

We receive an increasing number of complaints in this area. They range from the question of what gifts EU officials should accept to the issue of "revolving doors" whereby Commissioners or EU officials move to the private sector - or vice versa - thereby running the risk of creating conflicts of interest. Transparency, coupled with principles and rules for ethical behaviour, are crucial in tackling these questions.

With this in mind, I recently launched a consultation on ethical principles with the national Ombudsmen in the Member States. This consultation is not aimed at producing concrete guidelines. The idea is to identify and state the fundamental ethical principles that should apply to EU officials. These should enable EU officials to better understand and apply the law and other applicable rules, and help in situations that appear not to be covered by the law or other applicable rules. I hope that I will be able to present the results to you in the near future.

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.

I am conscious that much remains to be done in order for citizens to be fully informed both of their rights and of how best to exercise them. I am committed to informing citizens about these rights. In pursuit of this goal, I will cooperate closely with the European Parliament and the national and regional ombudsmen in the Member States.

Last but not least, it is also important for citizens to know where to turn to when their fundamental right to access to documents or other rights are infringed. I am, therefore, calling on all of you to help spread the word that the European Ombudsman is a fast, free, flexible, and, we believe, effective way to help individuals enforce their rights.

Thank you very much for your attention.