

Address at the European Ombudsman's 20th Anniversary Colloquium

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Good morning everyone and welcome. I am delighted and honoured to host this colloquium today and I would like to thank all of those who have worked so hard and so generously to make it happen.

In particular I would like to thank Professor Herwig Hoffman and Professor Jacques Ziller for their immense contribution to the preparations for today. I would also like to pay a special tribute to my Secretary General Ian Harden who drove this initiative.

Ian will retire next month after 19 years of service to this institution, and I hope today as he listens to the various contributions and reflections, that he will rightly take pride in the immense role he has played in bringing the European Ombudsman to what I consider to be a very healthy state of development. Ian's successor, Ms Beate Gminder is also with us today and I hope that she will consider this an early immersion, a crash course, in what lies ahead.

On a personal level, I am delighted to welcome two of my former colleagues from the Ombudsman community, Mats Melin, former Chief Ombudsman for Sweden and now President of the Swedish Supreme Administrative Court, and Alex Brenninkmeijer, former Ombudsman for the Netherlands and now a member of the EU Court of Auditors. And to all our other colleagues and friends, a very warm welcome also to you.

I am particularly glad that the first European Ombudsman, the person who, arguably, had the most difficult job, Jacob Soderman, is here today to share with us the journey that he made for ten years. My immediate predecessor Professor Nikiforos Diamandouros is however, in the process of recovering from pneumonia, and while he is well over the worst, his doctors advised him not to travel. I spoke to him last night, he sends his warmest wishes to all of you and in turn, I think many speakers here today will also warmly remember Nikiforos's great contribution to this institution.

He particularly asked me to say that as someone who values historical and institutional memory, he is immensely pleased that today's colloquium will lead to the publication of a companion volume to that produced for the 10 year anniversary in 2005.

A twentieth anniversary is of course a milestone event. It shows that an institution has at least



survived infancy and adolescence and is now entering its more mature years. But survival is never enough for any organisation. The process of renewal is unceasing. The foundations and the hinterland constantly change. No organisation can rest on its past achievements or fail to adapt to the demands of an ever-changing and restless political, economic and administrative environment.

Jacob will shortly describe his experience of his challenges, and others will reflect profoundly on the forces that have shaped the European Ombudsman and how in turn the European Ombudsman has shaped the administration of the European Union.

For my part, I would like to reflect on my relatively brief time in office to date and describe the strategy I have adopted to try to live up to the responsibility vested in me by the people, through the European Parliament, to lead this institution and to bring it on to the next level of relevance and of effectiveness.

My starting point is a simple question, what does it say on the tin, on the side of the can? What is the European Ombudsman supposed to do? Again, a simple answer, as once you distil the essence of Maastricht, of Lisbon and of the Charter of Fundamental Rights it is clear that the Ombudsman is there – in a complementary role to that of the Courts - to make sure that the EU institutions do not abuse or misuse their powers, and in doing that it helps to support democracy, and so enhances the democratic legitimacy of the European Union. The potential scope of its work is therefore very wide indeed, defined by, of course its statute, but also by the ambition of the vision of the Ombudsman.

A narrow description of this Institution as a complaint handling body fails therefore to give adequate expression to its deeper role as an embedder of democracy, as a driver of change in a culture that still lacks the requisite levels of accountability and transparency appropriate to institutions crafted from the finest European ideals. The complaints, central to our work, do solve individual problems, but they are also the drivers of change, the vehicles through we can tackle wider systemic problems.

So how does the European Ombudsman carve out a zone of operations for itself and how does it actually embed democracy? My predecessors created, deepened and widened that space from small and tentative beginnings and I am attempting to continue to do so.

And to that end, I do not see this office as a place somewhat set apart from the mainstream, dominant, institutions, a niche institution that deals with disaffected citizens when the bigger ones have failed to. Rather I see it as a duty of this office, when it legitimately can, to engage with the big issues of the EU, to find ways in which its own unique powers can provide a positive and useful influence.

I therefore, from day one, decided to increase the use of own initiative investigation powers. I appointed an own-initiative co-ordinator whose role is – in collaboration with her colleagues – to identify problematic issues to which we could make a useful contribution, and then to carry out an efficient and effective investigation.



To date we have completed or launched investigations into the transparency of the Transatlantic Trade and Investment Partnership negotiations between the EU and the US; the Commission's response to the European Citizens' Initiative, the appointment of Expert Groups to the European Commission, the manner in which the Commission deals with potential conflicts of interest arising from the so called revolving doors phenomenon, and we are about to begin an investigation close to the heart of EU decision making, into the transparency of the Trilogue procedure, that method of decision making whereby the Council and the Parliament, alongside the Commission, come together, in effect, to hammer out legislative deals on matters that will ultimately affect us all.

And the common denominator of those investigations is, essentially, 'influence'. How are laws and other decisions made, who are the key influencers in EU decision making, who or what has brought their thinking or interest to bear on what ultimately emerges from the process to land on the doorstep of every EU citizen?

I cannot and should not make judgments on laws democratically agreed by the Parliament and the Council, but what I can do is attempt to make sure that those outside the Trilogue doors or the Commission Offices or the Council chambers are given the transparency they need – and are entitled to - in order to effect accountability, an accountability that in turn confers democratic legitimacy on to the institutions of the EU.

I also encourage my colleagues to be proactive in recognising issues that suddenly crop up – outside of the routine caseload – where we could seek to influence a positive outcome.

Some weeks ago, a private meeting of – among others - hedge fund and other investors, took place in London at which a speech was delivered by a director of the European Central Bank. During the speech he revealed certain market sensitive information – information that was not formally publicly released until the following day thus giving rise to some negative media and other commentary about 'privileged access'. The ECB quickly denied any such intent on its part and said that the incident arose from an administrative error which caused a delay between speech delivery and speech publication.

I have no reason to doubt that this was indeed the case but I wrote nevertheless to the ECB President Mario Draghi asking him to account for the error and to outline what steps the ECB proposed to take to avoid these in future . In his reply the President, explained what had happened but also announced his intention to review the Bank's protocols in relation to its speech and other engagements. I look forward to the outcome of that review and the concrete proposals that emerge. I would also like to thank President Draghi for his prompt and engaged response and for his stated commitment to reviewing existing protocols.

I mention that case as it makes, in quite a graphic way, the link between a simple act of poor administration - in this case a technical glitch - and issues of democratic accountability and legitimacy. In querying the error, the Ombudsman was able to track a path from computer glitch through to a wider exploration of how a powerful EU institution, such as the ECB, ensures that



private interests are not preferred over those of the ordinary citizen with zero access to events of the kind I have just described.

Equally, through an own initiative investigation into the Commission's handling of revolving doors cases, we have attempted to support the Commission in its commitment to ensuring that privileged access by private interest is not unwittingly secured when public officials are hired by the private sector. In many cases these hires are clearly for the purpose of extracting intelligence and information about decisions that may impact on the bottom lines of those same private interests. Again, the point of the investigation is to make sure that the democratic and public interest is protected.

And in addition to those investigations, I have also begun to work with my colleagues in the Network of European Ombudamen to find common issues into which we can conduct parallel investigations. The first of those has been completed this year and concerns the protection of people denied asylum in the EU and who are being flown out of various member states on the return flights co ordinated by the EU border agency, Frontex.

I have been enabled to do this work through the efforts of my two predecessors, the men who laid the foundations and began to construct the walls of this institution. But I have also been enabled to do it because the institutions that are frequently the subject of my investigations, and at times criticism, continue to accept and respect the role of the Ombudsman within the wider public administration.

They support the European Ombudsman, not because they are legally obliged to accept a recommendation – they are not - but because their own respect for democracy – and perhaps their awareness of its fragility - entails supporting and engaging with an institution that is there precisely to ensure democratic legitimacy.

And despite the criticisms levelled against the institutions at times, it is to the credit of the very many dedicated and remarkable people who work in those institutions, that they so very often accept that criticism with good grace and move to improve the quality of the service that they give to the public.

Equally, this institution may not have survived as well as it has done were it not for the engaged support and commitment of the European Parliament and in particular to the Petitions Committee to whom the Ombudsman reports. Tomorrow I will present my annual report to the Committee and I look forward to discussing its contents with the members led by Committee chairperson Cecilia Wikstrom who also joins us today. That relationship is, arguably, the most critical of all and it is one I greatly respect and value. Every Ombudsman needs to be able to rely on Parliament in those cases, which should be rare, where an institution refuses to accept an important recommendation.

We are at a period of crisis yet again in the EU. Today the Eurozone summit meets to resolve a problem that if not resolved may lead to unimagined , even grave consequences. My ambition does not go so far as to suggest that I can sort out that one, but this much I do know: that



questions around legitimacy, transparent decision making, the quality of public administration, concern for the lived lives of EU citizens ,and fairness, go to the heart of this and many other EU problems.

The people demand not just fair decision making but they also demand an administration that is open in its dealings with them, that does not resort to arcane points of law or obscure principle in order to avoid an accounting for their actions. The people and above all at times of crisis, need an administration with a soul, with a conscience, and with a heart that beats only to the rhythm of their needs.

On the occasion of the 20th anniversary of this office, I would call on all the institutions and particularly on their leaders, to step back and appraise the degree to which your institution steps up to that particular plate. Reflect on your transparency, reflect on the service you provide to the public, reflect on the ethical base of what you do. Honestly reflect on these things and work with your people and with this institution to provide a standard of accountable, transparent, and legitimate leadership that can serve as an example to others both here and in the member states. And I in turn will commit this institution to doing all in its power to assist you in that work and also to make sure that it too adopts the highest standards.

It now gives me great pleasure to introduce the man who, as I said earlier, had the most difficult task of all three of the European Ombudsmen, the founding European Ombudsman, Mr Jacob Soderman.