

Intervista di Maurizio Donini a Emily O'Reilly in esclusiva per [@Futuro Europa](#)

Mrs. O'Reilly, the figure of the European Ombudsman is very important to defend the rights of citizens, who can turn to his office? Citizens and Companies?

Citizens, associations, NGOs, companies can turn to my office with a complaint - essentially anyone residing or registered in the European Union. An online complaint form makes it easy and quick to lodge a complaint while an interactive guide on the website helps people decide if my office is best placed to help them or rather a different EU or national body. My office looks into complaints about maladministration by the EU institutions, bodies or agencies. People can turn to me for a range of issues such as late payments from EU funds; problems with EU tenders or contracts; refused access to documents or undisclosed lobbying. There are certain elements that a complaint must have in order for us to be able to open an inquiry. It must concern an EU institution, body or agency; the complainant must first give the institution concerned a chance to respond to their complaint; and the issue must not already be before the court.

What procedure must follow the request for intervention?

When we receive a complaint we check that it is something that we look can look into. If we decide to open an inquiry, we then enter into contact with the institution concerned. This could entail asking the institution to reply to certain questions raised by the complainant or asking for a meeting to inspect relevant documents. This information then feeds into my analysis where I may propose a solution, find maladministration or no maladministration. With straightforward complaints on relatively uncomplicated issues, inquiries can take just a few weeks. Complex issues requiring a lot of research can take many months. We keep complainants informed of where we are at in the inquiry and try to complete the inquiries as soon as possible.

Does the ombudsman act only on request or can he intervene independently?

One of the most important powers that I have as European Ombudsman is being able to act on an issue regardless of whether I have received a complaint about it. I open inquiries on my own initiative when I think there is a systemic problem that can be resolved by my office taking action. Some of the biggest improvements in the administrative practice in the EU institutions have been as a result of such own-initiative inquiries. A good example of this was my own initiative inquiry into the transparency of the EU-US free trade talks (TTIP). It led to many more documents related to the negotiations proactively being made available to the public. While the TTIP talks are on hold, the transparency principles have been carried through to other trade talks.

Ombudsman and Privacy Guarantor (GEPD), two different figures, can there be points of contact or overlaps between the two themes?

I have noticed during my time here that - particularly when it comes to access to document requests - EU institutions can sometimes use data privacy as a fallback position for not releasing a document. It is my job to encourage institutions to adopt a more citizen-focused attitude that says that documents should be in the public domain unless there is a good reason for them not to be. Too often the thinking is rather the reverse - that the documents should not be made public unless there is a good reason.

What progress has been made since 2013 when it took office today?

My office is relatively small - around 65 posts, compared to over 30,000 in the Commission for example - meaning that since I was elected in 2013 I have been conscious to use the resources in a way that brings maximum benefit to citizens. My overall aim is to increase the impact, visibility and relevance of the office - so that more people hear about us and more people are helped by us. The changes I have made include setting up a strategic initiative unit in the office to look into systematic problems in the EU institutions; changing the internal rules so that cases can be dealt with more flexibly and more quickly; and introducing a Fast-track Procedure for access to document requests. The result has been a strong increase in the number of cases and a higher awareness of the office, reflected in the stronger media interest in its work.

What were the most difficult cases we faced? Were you interested in the case of Safe Harbor?

I will take "difficult" in this instance to mean both significant and challenging, so my current inquiry on bringing more transparency to the EU legislative process would be among the most difficult during my time as European Ombudsman. I have ask the Council of the EU, which represents Member States, to record governments' positions on legislative proposals. I want to enable citizens to actively participate in the democratic life of the EU, which means being able to follow draft EU laws. It is important for democracy - and for the wellbeing of the EU generally - that citizens know it is their governments shaping laws in Brussels. The Council has been used to working in an old-school international diplomacy manner. My proposals to introduce more transparency will require a culture change but one that is in keeping with the fact that the Council is a co-legislator along with the European Parliament. On Safe Harbour, of course data protection is an issue for the EDPS, but I did have an exchange of letters with Vera Jourova, European Commissioner in charge of Justice, on the use of the term Ombudsman for the new complaint-handling office created under the EU-US Privacy Shield. I wanted to draw attention to the fact that the term Ombudsman in Europe refers to an independent institution and that citizens' expectations as to the independence and impartiality of Ombudsman institutions should not be undermined.

The current Juncker Commission has put many strong points on citizens' rights, what progress has been made? Is the figure of the Ombudsman involved in the legislative processes of the Union?

I see citizens' rights in terms of ensuring the EU administration works in a proactive and transparent way to the benefit of citizens. The Juncker Commission has responded positively to many of the proposals that I have made. There is more transparency about expert groups (which advise the Commission); better implementation of rules on revolving doors between private and public sector jobs; and increased transparency when it comes to trade negotiations. There is still work to be done. For example, I would like to see the obligation on senior officials to proactively publish details of their meetings with lobbyists extended to all Commission officials. Achieving accountability, transparency and ethics is not an exact science. Sometimes there is a great positive leap forward and sometimes progress is slow. The job of an Ombudsman is to always keep the greater goal in mind and continuously to push the institutions to be the best they can be. My office is not involved in the legislative processes of the EU, however it can help to improve the transparency of the process which was the case for the informal talks - known as trilogues - between the EU institutions on draft EU laws. After my intervention, more public information about when these talks take place and what is on the agenda is now available.

What are the best results achieved and which ones it has not yet managed to have?

There are several results worth highlighting such as greater transparency concerning trade documents; the tightened Code of Conduct for Commissioners; improved transparency at the European Central Bank; or the European Medicines Agency publishing the results of clinical trials. One important case where I did not achieve the result I was looking for concerned the transparency around tobacco lobbying in the European Commission. I asked the Commission to proactively publish details - including the minutes - of any meetings

its staff has with tobacco lobbyists. Currently only its health department does this. The Commission refused to follow my Recommendation in this regard. I found this puzzling as it would be easy to implement and would be an important positive signal towards the public.

Brexit is definitely an important topic, I think particularly for you that is Irish, has you activated on this topic about the negotiations?

As an Irish citizen I am following these negotiations very closely as they have the potential to profoundly affect my country. As Ombudsman I am following them through the transparency prism. I wrote to both the Commission and the Council to ask that the Brexit negotiations be as transparent as possible given that so many people's livelihoods depend on the final outcome. So far, the institutions have been commendably open, proactively publishing many documents. I want to ensure that this openness continues as negotiations progress.

Some proceedings have been widely echoed, such as the appointment of Barroso to Goldman Sachs, the secrecy of the TTIP deeds, the register of lobbyists, in Italy the procedure against President Draghi has widespread. Are these preventive actions aimed at avoiding possible conflicts of interest?

Each of these issues embodies a different aspect of good public administration. The move by Mr Barroso to Goldman Sachs concerned the Commission's interpretation of the Code of Conduct; my inquiry into TTIP concerned the transparency of trade negotiations; my inquiry into President Draghi's membership of the Group of 30 was to do with public confidence in the independence of an institution. I have also encouraged the institutions - which are currently negotiating the matter - to strengthen the lobbyist register. A common point between these issues is the importance of avoiding any perception that a public administration is not working in the citizens' interests. It is not only important to have strong accountability rules but to actively implement them.

The new frontier of the digital single market and the digital single space opens up new scenarios with respect to the rights of citizens, falls within your field? Do you have attention to this area?

The digital world opens several broad issues. One is that citizens expect answers quickly and that - particularly among the younger generation - there is little tolerance for secrecy. Another factor is that bad publicity spreads extremely quickly. The essence of my work - ensuring good administration - remains the same but I certainly take into account the changes in the digital world that influence how citizens perceive the public institutions that are meant to serve them.

First woman to hold this position, I have often written on the gender gap, is this another step forward in filling this gap?

Every time a woman takes a high-level position, it is an inspiration to others following, so in that sense it is a psychological step to filling this gap. Of course, there is more work to be done. I note that the European Commission recently chaired a taskforce to advise on how to better involve regional and local authorities in EU policy-making but - as many were quick to point out - it only consisted of seven men. Incidences of this kind are becoming rarer, but it is important that women speak out in the face of such gender imbalance. In this respect, the #MeToo era is an empowering one for women.

A Europe with many growing anti-European movements, what should the EU do to bring citizens closer and reinforce the European sentiment in its opinion? Did you think you would arrive at a brexit?

I believe Brexit is the result of circumstances very particular to the UK: a media landscape that was broadly hostile to the EU coupled with a political class that was at best lukewarm to it. If people are fed a daily anti-EU diet into their homes via the radio, television or newspapers, then there is always going to be a realistic chance that a majority vote to leave when given the choice in a referendum. I was in the UK shortly before

the referendum and I remember telling my colleagues afterwards that I thought the UK would opt to leave - such was the nature and level of debate in the run-up to the vote. On bringing the EU closer to citizens - I think the EU has a role in this by being open, responsive and politically engaged with citizens. That is only part of the equation however. National politicians also have a role. This does not mean that they should be uncritical champions of the EU but it does mean spelling out exactly what the EU does and how much say Member States actually have in law-making and other decisions.

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