

"OpenEurope" event

Keynote speech VP M. ŠEFČOVIČ  
Brussels, 29 November 2011 – 14 h – 16h

*Draft speaking points*

- check against delivery -

Dear Mrs. Wallis,  
Dear Mr. Persson,  
Dear Mr. Adamson,  
Ladies and Gentlemen !

I.

I would like to thank you for the opportunity to speak and exchange views on the issue of transparency and accountability in the EU institutions. In my intervention, I will focus on the achievements and challenges for the European Commission.

The issue of transparency has been high on the Commission's agenda over the last few years and rightly so. You certainly followed the discussions about the reform of the **Code of Conduct for Commissioners** earlier this year which clarified the obligations of Commissioners stemming directly from the Treaty. It is clear that transparency and accountability are an essential prerequisite for the integrity and the credibility of our political institutions.

The EP, together with the Commission, has been at the forefront of enhancing transparency and accountability, in the EU institutions. I mentioned the Code of Conduct for Commissioners; I could also mention the discussions in the EP about a code of conduct for Members of Parliament which will probably be concluded by a vote in the plenary in December. With regard to both issues, transparency and accountability, I would like to pay a special tribute to Diana Wallis, who is driving this agenda with remarkable energy and determination.

But transparency and accountability are not an end in themselves. Their ultimate aim is to secure the **support of citizens** and to build **trust** in the European Union's decision making processes and the policies it delivers. Political institutions cannot perform without public confidence. Citizens have a right to know how decisions are prepared and made, with which input from whom, what are the options considered and the choices made.

Our institutions are bound to such openness and transparency by the Treaties themselves which, straight from article 1 (of the EU Treaty), require that "decisions are taken as openly and as closely as possible to the citizens". Therefore each institution should ensure that transparency is an integral part of its policy.

## II.

But I need to stress at the same time, that transparency has to be **balanced** with a number of considerations which our institutions cannot disregard such as, for example, the protection of individuals; the independence and the capacity of our institutions to reach decisions without undue external pressure; and the need to ensure an effective decision making process. Transparency, driven to its limits, can easily lead to excesses and favour the emergence of a "big brother" type of environment which would in the end affect the democratic nature of our system.

The European Commission is thus striving to strike the right balance between the various, and often conflicting, interests surrounding its decisions about whether or not to make public certain documents or information. To do this the Commission is guided by the respect of the law setting the scope and the limits of these various interests.

In meeting this challenge, we do benefit from a number of **safeguards**. Our decisions, and the way we apply the law in concrete cases, are themselves subject to close scrutiny from many outside transparency observers as well as by the press, let alone through formal legal redress and jurisdictional processes including the Ombudsman and the Court of Justice which through case law shapes the implementation of our legislation.

I should add at this point a further element about the usefulness of transparency requirements: The fight against fraud and the **abuse of public money** should constitute a permanent concern for a public administration. Transparency measures constitute practical guarantees and safety nets against human weaknesses. Transparency is one of the instruments to keep public administrations on the right track and to prevent human weaknesses from prevailing.

### III.

It is in the light of such considerations that the European Commission has set itself a concrete transparency agenda to deliver a range of measures in this field and to mobilise new instruments to achieve what is possible within the Treaty framework.

Initiated in the early years of 2000, around the **white paper on governance**, this endeavour has then taken very concrete shape with the Commission of José Manuel Barroso in the form of the European Transparency Initiative. This initiative has triggered a set of measures which have boosted the transparency of our institutions and of the European decision making process to a level never before seen, and which has established our institution as one of the most transparent public authorities in the world.

Let me briefly review with you some of our most significant achievements.

The **working procedures** of the Commission are very transparent and allow everyone to know well in advance what new policy initiatives the Commission is planning. The Commission has just presented its annual work programme for 2012. So, if you want to know what the Commission intends to propose as new legislation in 2012, you simply have to consult this document on the Commission website.

The Commission organises **public consultations** on many of these policy initiatives where everyone can make their point of view heard. Again, these contributions are published on the Commission website.

As regards access to the decisions and the composition of **expert groups**, the Commission has set up a register of expert groups and a register on comitology providing agendas and summary records of committee meetings as well as draft measures once the committees have taken a vote.

Once legislation is adopted, you have the entire "acquis communautaire" accessible online on the internet.

So, everyone, even without being in Brussels, can follow the essential steps of legislation in the EU.

Another issue is the question how the **EU budget** is used. In this area, I can say that the Financial Regulation was amended in order to create an obligation for our institutions and our Member States to publish the end beneficiaries of EU funding. As of today, through the Financial Transparency System available online on the Europa web server, a considerable amount of financial information is made available to anyone at the click of a mouse about where the EU budget goes. The Commission publishes this information itself for all centrally managed expenditures and links to national websites for the expenditures which are decentralised and managed by the Member States.

But let me highlight one of our flagship achievements of which I am particularly proud: the **Transparency Register**. This instrument, now fully shared with the European Parliament, was opened in 2008 and offers a body of information never before available to citizens about

the identity of the interest groups engaged in lobbying activities toward our institutions. Citizens have a right to know who seeks to influence public decisions, with what purpose and with what level of resources. The joint Parliament-Commission Transparency register, covering already more than 4500 organisations, provides this information online together with other information about the level of personnel involved.

On this again the Commission, together with the Parliament, has achieved a result which is rarely equalled in our Member States, let alone in the rest of the world. Our satisfaction also derives from the fact that this initiative, carefully followed by many observers in our Member States, seems to have sown the seeds of inspiration for similar approaches to be envisaged in some of our Member States.

The current register has now reached a significant level. It has fulfilled our objective to change the Brussels landscape with regard to the transparency of a key aspect of EU policy making, its legitimacy and its accountability: its interaction with all segments of society and stakeholders.

The time is now ripe for its extension to other institutions as well. Thus we would very much like the Council to join us in completing the scheme. I believe that it would strengthen even further the value of the register and its significance for citizens.

Let me highlight another aspect of the register which should not remain unnoticed. All those who register accept a basic set of rules of behaviour how they should do their job. This is not only a complement to the general rule of law which makes bribery a criminal offence in our Member States.

It also complements the usual approach to regulate behaviour of officials by civil service law. In this regard, I would like to remind you that EU officials just like national officials are bound by very clear rules in the **EU Staff Regulations**. The Commission has done a lot in recent years to make sure that all its staff members are aware of their obligations. There is training for newly recruited staff, for

managers, for staff working on procurement and financial matters; there were ethics days in some particularly sensitive DGs and the Commission established a network of so-called "**ethical counsellors**" in all DGs who are ready to advise staff and who complement the numerous – formal - mechanisms of checks and balances inside the Commission.

When we speak about transparency, I should also mention the breadth of information offered to citizens by the **Europa website**, which makes available in a proactive way one of the largest - and multilingual - banks of documents offered by a public body about its activity and the preparation of legislation. Various registers are also available on Europa: in 2010 over 18600 documents were added to the register of Commission documents. Let me note for example that all details about staff numbers and salary details, including all attached benefits are made fully public in this context.

The effect of such proactive publication is extended further by the exercise by the citizens of their right of **access to documents**, a right enshrined in the Treaties and embodied in specific legislation (the so-called "Regulation 1049"). This right is certainly very well known, and extensively used, by law practices, business interests and NGOs, for building up their case in court. In 2010 the Commission handled over 6100 applications for internal documents, of which over 5000 were fully granted and over 300 partially thus providing access in 87% of the cases.

However, this right is not extensively used by the citizens for whom these rights had been originally established. It is often used by professional groups such as lawyers to an extent which runs counter the intention of the Regulation. Let me mention as an example the case of **competition law**. Unlike other Commission portfolios, competition is primarily concerned with enforcement of the Treaty through investigations and detailed decisions addressed to companies. Case files can easily contain over 100,000 internal documents of companies many of which contain highly sensitive business secrets. Regulation 1049 is frequently used by lawyers to circumvent national court rules to get access to documents of the companies they are suing

or intend to sue. This is just an example of the various constraints in the field of transparency which need to be balanced when making political decisions.

#### IV.

I could go on with other more minor enhancements and implementation measures linked to transparency and accountability but you will have understood that the Commission has been keen to translate words and commitments into real concrete improvements for the benefit of citizens and through this for the consolidation of democracy and the capacity for these citizens to fully exercise their rights. The appropriate legislation, regulations and administrative measures have been adopted and been given effect now.

As is the case for most of such frameworks once they have been set up, the next useful steps are not necessarily to add legislation or regulation to the existing legislation and regulation. In reality, attention should now be brought to the **full and appropriate implementation** of these instruments. This is where our efforts will be focused in the coming months and for the rest of our mandate.

Draw the lessons of the case law; ensure the full respect of the guidelines set up to deliver on our commitment to openness and transparency; provide information and guidance to help citizens exercise fully their right in this respect. Simplify procedures, and, above all, promote actively a culture of openness and transparency. These are the real challenges remaining in front of us and which should receive our attention.

The citizens' direct involvement in EU matters will be dramatically boosted by the new instrument foreseen in the Lisbon Treaty, the **European Citizens' Initiative** (ECI). The ECI Regulation has been already adopted, and the first ECIs can be launched as of April 2012. Just before this date, I will be holding a **conference** on this new instrument on 26 January 2012 here in Brussels to inform and discuss the implementation of the Regulation. You are all invited to the conference ! You can register on-line via our specifically dedicated website, set up by our Secretariat General.

I am sure that you have understood how fully committed I am to oversee and to promote this effort within the Commission. I am also sure that there are a number of questions which you have in mind so I think it is high time for me to listen to you and to try, hopefully, to answer your questions and the concerns which you may have.

Thank you for your attention.