

**Transparency for better
governance
Meeting in Monterrey
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Anders Chydenius 1766 in the debate of the Swedish- Finnish legislative body

- “The freedom of a nation should always be seen in relation to its freedom of the press, in such a way that one cannot exist without the other”
- “... in countries, which allow freedom of the press, citizens are offered better individual rights than in countries where human thought and reason is submitted to censorship”



Tryckfrihetsförordningen 1766

- The law on freedom of the press was adopted as a Constitutional law in Sweden-Finland in 1766.
- Documents held by public authorities, including the legislative body, became public with a few exceptions set out in the law.
- Censorship by the state authorities was abandoned.
- This law is the cornerstone of open governance in the Nordic countries.



European Convention on Human Rights 1950 Article 10 (1)

- “Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to **receive and impart information and ideas without interference** by a public authority and regardless of frontiers.



What is transparent governance?

Transparent governance means that citizens should

- Know what the public governance is doing;
- Why it is doing it;
- What it is planning to do; and
- have a right to control files and records.



European citizens expect a governance that is :

- open/transparent
- accountable
- service-minded
- honest



1992 Maastricht Treaty on European Union

DECLARATION No 17 on access to information

- “The Conference considers that transparency of the decision-making process **strengthens the democratic nature** of the institutions and the public’s **confidence** in the administration.”
- Council and Commission to adopt rules on **access of documents**



1997 Amsterdam Treaty Article 255(1)

- “1. Any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have **a right of access to European Parliament, Council and Commission documents**, subject to the principles and the conditions to be defined in accordance with paragraphs 2 and 3.”
- 2. limits to be set on the grounds of specific public and private interests.



Article 41 of the EU Charter of fundamental rights

The right to good administration:

”1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union.”



This right includes:

- The right of every person to be heard, before any individual measure, which would affect him or her adversely is taken
- The right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy
- The obligation of the administration to give reasons for its decisions



EU Code of good administration

Article 11 - Fairness

- The official shall act impartially, fairly and reasonably.
- Le fonctionnaire agit avec impartialité et de manière *équitable* et raisonnable.



European Human Rights Convention Article 10:2

The exercise of freedom of expression includes duties and responsibilities and may be restricted:

- when it is necessary in a democratic society and prescribed by law
- in the interests *for ex.* of national security, territorial integrity or public safety, for prevention of disorder or crime
- for the protection of the rights of others or for preventing the disclosure of confidential information



The private life of a citizen includes:

- Matters related to the individual's home or family and human relations;
- Data about the individual's health and other sensitive issues;
- Personal communications, letters, phone calls and messages;
- Hobbies and activities during private time.



Freedom to write about public activity

A holder of public office can be freely scrutinized by the media provided that

- the facts in the articles are relevant to shed light on the way he conducts his office;
- it is necessary because of a matter of public concern; and
- the information is accurate and reliable and in accordance with the ethics of journalism.



Principles of the European Court of Human Rights

- The free media is the **watchdog** of public life
- Matters of legitimate public concern should be dealt with freely
- The citizens have the right to know about such matters
- There should be a sound balance between the freedom of expression and values like *for ex.* national security or individual privacy



An Independent Ombudsman

The Ombudsman should preferably be elected by a Parliament in a secret ballot

- Promote the rule of law, human rights and the fairness in administrative activities;
- Have access to all public information needed to exercise his duty;
- Deal with citizens' complaints or act on his own initiative;
- Initiate investigations, make recommendations and address special and annual reports to the Parliament.



An Ombudsman of the future

- The Ombudsman's mandate should adapt to changes in the society
- The Ombudsman should also play an educative and preventive role in society
- The Ombudsman should work for a good and transparent administration with fair procedures as the best protection against fraud and corruption
- The Ombudsman should cooperate with other ombudsmen especially to supervise the correct application of human rights conventions



Corruption Index 2004

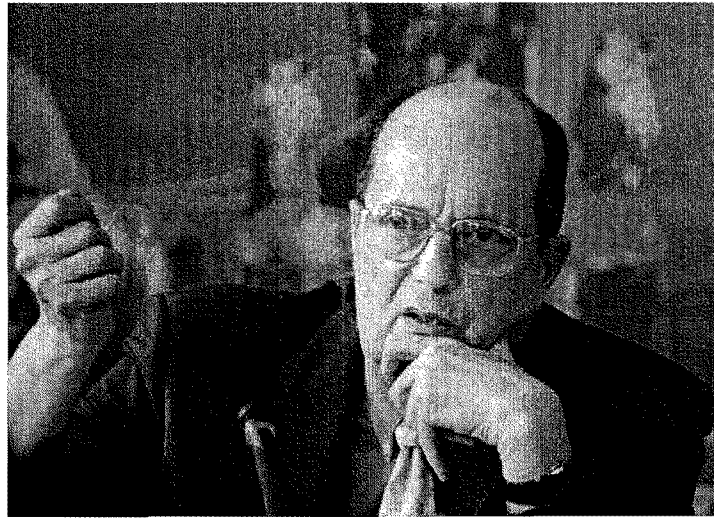
■ Least corrupted countries

- Finland
- New Zealand
- Denmark
- Iceland
- Singapore
- Sweden

■ Source

Transparency International

www.gwdg.de/~uwww/icr.htm



Thank you for your attention !!

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First European Ombudsman 1995 - 2003