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Impact and legitimacy of ombudsmen in
Europe
Paris, 9 January 2018

Some findings from my research project

Outline

- Introduction
- Research project
- Measuring interactions with ombuds
- What users want – a few narratives
- Different traditions of law
- Conclusion





Introduction

- The growing importance of ADR and the lack of users experience
- Claim to fame: easily accessible, user-friendly, transparent, ...
- Decision-acceptance and trust...?
- Empirical data?
- What motivates us to accept a



Research project

Trusting the middle-man: impact and legitimacy of ombuds in Europe (2013-2016)

<https://www.law.ox.ac.uk/trusting-middle-man-impact-and-legitimacy-ombudsmen-europe>



Research questions

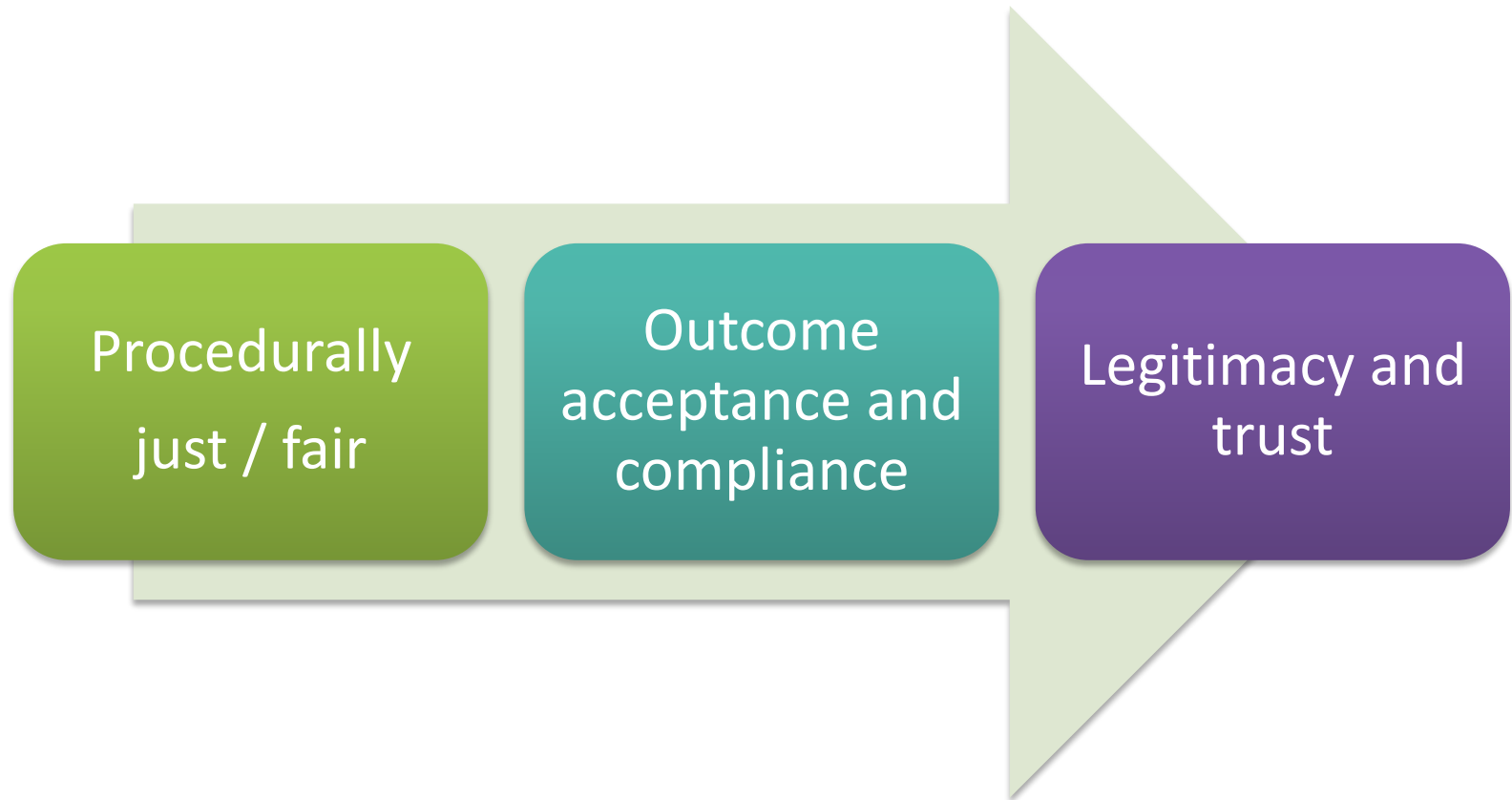
- What explains users' perceptions of fairness and trust vis-à-vis ombuds institutions?
- How do cultural frameworks influence citizens use of ombuds?

Method: satisfaction survey

- Consumer satisfaction survey sent out by ombuds to their customers
 - September 2014 – March/May 2015
 - UK sample **1,025**
 - German sample **1,442**
 - France sample **413**



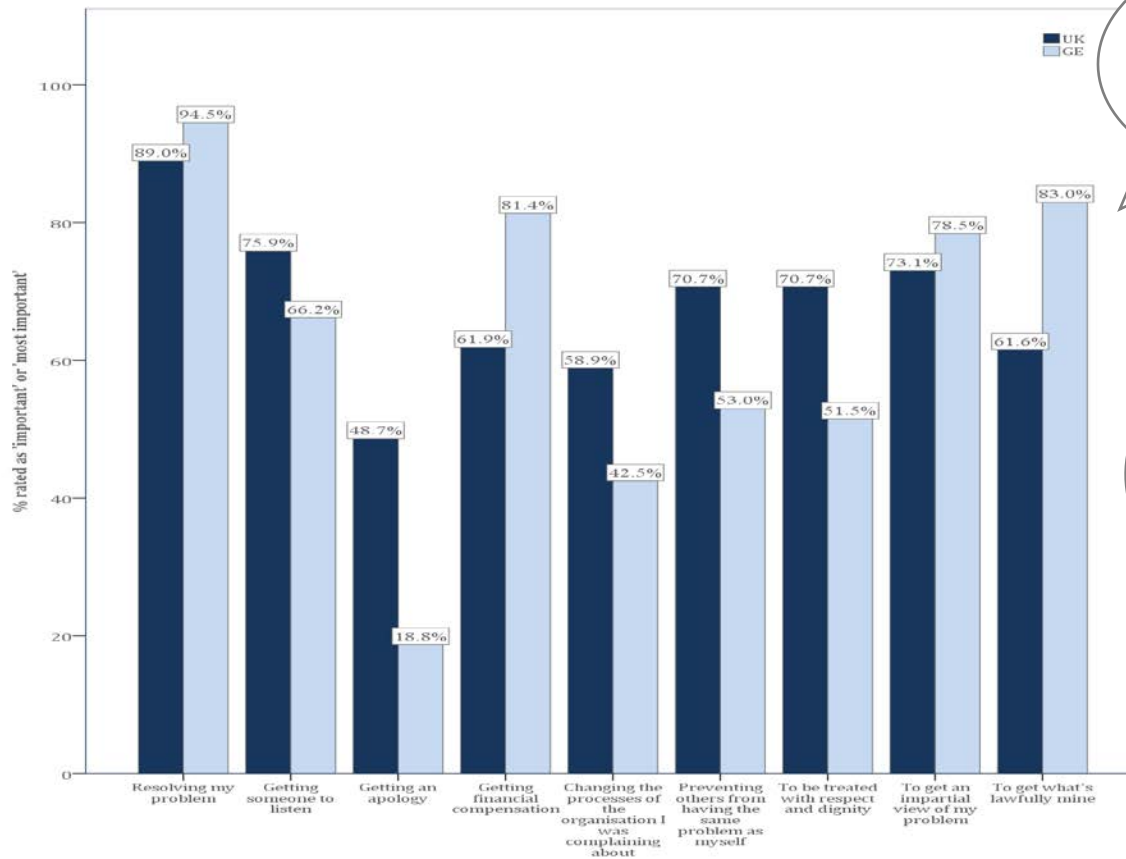
Procedural justice and ombuds



How important were the following in your decision to complain?

- Resolving my problem
- Getting someone to listen to me
- Getting an apology
- Getting a financial award and / or my money back
- Changing the business processes
- Preventing others from having the same problems as myself
- Being treated with respect and dignity
- To get an impartial view on my problem
- To get what is lawfully mine, without having to pay.

Importance in the decision to complain



UK sample: The most important factors were getting an apology and someone to listen.

German sample: The most important factors were lawfulness and financial compensation.

Measuring interactions with ombuds

- Case study: **energy**
 - Germany – Schlichtungsstelle Energie (n=323)
 - UK – Ombudsman Services: energy (n=421)
 - Le mediateur national d'...



Energy

Confidence in the ombuds

Germany 80,5 %

France 84,7%

UK 69,5 %

Does the ombuds act according to the law

Germany 83,4%

France 85,6%

UK 80,1%

Overall satisfaction

Germany 82,6 %

France 90,9 %

UK 73,4%

Was the outcome in your favour

Germany 67,4 %

France 51,9%

UK 75,1%

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JUNE 2016

PROJECT REPORT
Trusting the middle-man:
Impact and legitimacy of ombudsmen
in Europe

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Projects main discoveries (1)

- Peoples expectations are very (too) high
- Expectations management
- Importance of staff interaction at first contact with ADR body (staff procedural justice)
- Trust in ombudsmen

Projects main discoveries (2)

- National distinctions in expectations of ADR providers
 - The data showed that the German respondents expected a legalistic and formal ADR procedure; whereas the UK respondents value being listened to, preventing others from having the same problem and being treated with respect. The French respondents seemed unsure about what to expect from the ADR procedure overall.
- UK sample: difference in expectations of public and private ADR providers
 - The UK respondents report stark differences in their experiences with public and private sector ADR providers.



Cultural narratives

- Legalistic
- Institutional set-up (staff)



- Not-legalistic
- Institutional set-up (staff)



- Our relationship with authority (the state) is mediated through surrounding legal traditions, amongst other things. This influences our expectations of institutions and their procedures delivering dispute resolution.

Finding an explanation in different traditions of law?

- Civil law tradition
- Common law tradition
 - Rule of law
 - Legal Culture
 - Legal tradition
 - Access to justice



Confusion, gaps, and overlaps

A consumer perspective on alternative dispute resolution between consumers and businesses



Chris Gill, Naomi Creutzfeldt, Jane Williams, Sarah
O'Neill, and Nial Vivian



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Key facts from the mapping

- 147+ ADR schemes in the UK (c.f. 95 in 2010)
- Mostly cover services, rather than goods
- Wide range of processes and terms used
- 54 ADR schemes 'approved'
- Half of schemes don't publicly state if free
- ADR only mandatory in limited sectors

Key messages

Message 1: the ADR landscape is not based around the needs of consumers.

Message 2: the ADR landscape is more complex and confusing than before.

Conclusion

A magnifying glass with a black handle and a silver rim is positioned over the word 'Conclusion'. The lens of the magnifying glass is centered over the letters 'clu', making them appear larger and more prominent than the rest of the word.

- ADR has been implemented and accepted into the national justice system in different ways.
- This leaves the ADR landscape patchy and not easy to navigate for the consumer.
- Ombuds have proven to be reliable models providing ADR and benefit from 'branding' recognition.

