

## European Ombudsman presents 2003 Annual Report

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The European Ombudsman, **P. Nikiforos Diamandouros**, presents his Annual Report for 2003 to the Committee on Petitions of the European Parliament today. The Report gives an overview of the Ombudsman's work in 2003 and highlights the results achieved for EU citizens. This is the first Report presented by Mr. Diamandouros, who took up the post of European Ombudsman on 1 April 2003.

The 2003 Report contains many examples of the Ombudsman's work designed:

**To serve citizens:** In almost 70% of the cases handled in 2003, the Ombudsman helped the complainant by opening an inquiry into the case, transferring it to a competent body or giving advice on where to turn for a prompt and effective solution to the problem. The Ombudsman also opened five own-initiative inquiries, covering important issues such as the integration of people with disabilities. Concrete achievements for citizens in 2003 included increased transparency in the Council's recruitment procedures and the Commission's agreement to give unsuccessful bidders in its tender procedures time to challenge contract award decisions. More information about the Ombudsman's casework, including examples of complaints from citizens all over the Union, can be found in Annexes I and II.

**To inform citizens:** The Ombudsman made strenuous efforts in 2003 to inform citizens about their rights. In the past 12 months, he visited 12 of the current and all 10 new Member States, presenting his work to NGOs, chambers of commerce, students, journalists and other interested citizens. Press releases were issued, on average, every seven working days, to draw attention to the Ombudsman's decisions and communications activities. To help raise awareness among citizens who may need to use the Ombudsman's services, the Commission agreed to his suggestion to inform applicants for, and recipients of, certain grants and subsidies of their right to complain.

**To empower citizens:** As well as dealing promptly and effectively with complaints, and informing citizens about their rights, the Ombudsman has worked hard for the empowerment of citizens. He participated actively in the Convention on the Future of Europe to ensure that citizens' rights were given a central place in the draft Constitution. He continued, during the Intergovernmental Conference, to argue for non-judicial remedies to be included in the text, so that citizens who have problems exercising their rights have access to a fast, free and flexible solution. Non-judicial remedies, in the form of national and regional ombudsmen and similar



bodies, can play a key role in ensuring that citizens enjoy, as an everyday reality, their rights under EU law.

These intensive efforts have paid off. The first three months of 2004 saw an unprecedented 64% rise in complaints to the European Ombudsman. According to Mr. Diamandouros, "With enlargement only days away, I am sure that this trend will continue, particularly in light of the high expectations that the new citizens have of the Union. I do not underestimate the task ahead, but look forward to rising to the challenge with energy, enthusiasm and a deep sense of the heavy burdens and responsibilities that this implies."

An executive summary of the Ombudsman's Annual Report 2003 is available on his website in 20 languages. Please visit:

<http://www.ombudsman.europa.eu/report/en/default.htm> [Link]

*For further information, or for a copy of the full report in any of the 11 official EU languages, please call: Ms. Rosita Agnew, Press and Communications Officer; tel:+32 (0) 2 284 25 42.*

#### ANNEX I : ANALYSIS OF COMPLAINTS IN 2003 *How many?*

The Ombudsman received 2,436 complaints in 2003, representing a 10% increase compared to 2002 (2,211). The Ombudsman opened 248 inquiries on the basis of these complaints, as well as 5 inquiries on his own initiative. This represents a 13% increase in inquiries opened compared to 2002.

#### *Against whom?*

Most of the inquiries dealt with by the Ombudsman in 2003 - 67% - concerned the European Commission. A total of 39 concerned the European Parliament's administration (11% of the total inquiries dealt with), 26 concerned the European Personnel Selection Office (7%) and 20 concerned the Council's administration (6%).

#### *About what?*

Lack or refusal of information (28%), unfairness (15%), discrimination (12%), avoidable delay (10%), procedural errors (10%) and negligence (5%) were the most common source of complaints. Problems with calls for tender and contracts concluded with the institutions were raised frequently.

#### *From whom?*

Most complaints - 93% - came from individual citizens, with companies and associations responsible for the remaining 7%.

Germany produced the greatest number of complaints - 18% of the total, followed by France (13%) and Spain (12%). Taking population into account, the greatest proportion of complaints came from Luxembourg, followed by Finland, Belgium, Portugal and Greece (indicated in the following table under the heading "Rate (%)").

De UK Fr It Es NI El Be Pt Sv At Da Fi le Lu Other % **EU population**

22

16

16

2



15

11

4

3

3

3

2

2

1

1

1

0,1

### **2003 Complaints**

432

140

320

196

284

87

100

199

110

53

3



50

31

88

33

38

275

**% of total**

18

6

13

8

12

4

4

8

5

2

2

1

4

1

2

11

**Rate (%) (1)**

82

4



38

81

53

109

100

133

267

167

100

100

100

400

100

2000

**2002 Complaints**

308

144

213

191

354

76

109

220

5



88

53

45

19

121

38

25

207

**% of total**

14

7

10

9

16

3

5

10

4

2

2

1

5

2

1

6



9

**Rate (%)**

64

44

63

60

145

75

167

333

133

100

100

100

500

200

1000

*What result?*

Over a quarter of the inquiries (48) closed in 2003 were settled by the institutions – proof that the EU administration is keen to resolve problems that the Ombudsman brings to its attention. The institutions further accepted 5 draft recommendations made by the Ombudsman. In no case did the Ombudsman deem it necessary to resort to his ultimate weapon - a special report to the Parliament.

The Ombudsman found no maladministration in 87 cases. It is important to recall that when no maladministration is found, the complainant at least receives a full explanation from the institution concerned and the Ombudsman's view of the case. In 20 cases, the Ombudsman made a critical remark. Nine new draft recommendations were made in 2003.

The Ombudsman provided advice as to whom to contact to almost 1,300 citizens whose



complaints fell outside his mandate. He also responded to 2,538 e-mail requests for information.  
*How long?*

The Ombudsman continued his efforts to close all inquiries as rapidly as possible, normally within one year. At year end, 10 cases were open beyond the one-year target.

#### ANNEX II: SAMPLES OF COMPLAINTS IN 2003 **Lack of transparency**

The Council gave a Portuguese citizen access to his own marked examination paper, after the Ombudsman looked into the case. The citizen had taken part in a competition for administrators and asked for a copy of his marked paper after he heard that he had not been admitted to the oral examination. The Council initially refused but reversed its decision in the light of new rules on access to marked papers introduced in the course of the Ombudsman's investigation.  
(2059/2002/IP)

The Ombudsman criticised the Commission for failing to provide accurate information about a programme it was funding, following a complaint from a UK-based consultancy. The Ombudsman found that the programme was governed by a large number of documents of varying legal status. Moreover, the Commission's use of the terms "user" and "partner" interchangeably was an additional and unnecessary obstacle to clear communication, he said. The Ombudsman called on the Commission to avoid presenting information in a misleading or unnecessarily complex form. (221/2002/ME)

An investigation by the Ombudsman led to the publication of the agendas and minutes of the European Convention's Praesidium meetings, once the Convention had finished its work. The Ombudsman agreed that "disclosure of the agendas and minutes before the Convention completed its work would seriously undermine its decision-making process" but said that "it seems difficult to argue that the decision-making process could any longer be undermined once it has reached the end of its work". The investigation followed a complaint from the European Citizen Action Service (ECAS), whose request for access to the documents had been refused.  
(1795/2002/IJH)

#### **Late payment**

Following a complaint to the Ombudsman made on behalf of Stockholm University, the Commission made the final payment due under a research project, apologised for the delay in doing so and agreed to pay interest. The Commission also assured the Ombudsman that the shortcomings in the financial procedure responsible for the delay had been eliminated, and the system was now functioning satisfactorily. (1173/2003/(TN)IJH)

A Spanish sub-contractor was paid for its services after the Ombudsman intervened in the case. The Commission explained that it could not pay the main contractor because of problems with the final report that it had submitted. Once the main contractor submitted the corrected final report, the Commission made the final payment. The main contractor then paid the sub-contractor, who thanked the Ombudsman for his help. (1960/2002/JMA)

#### **Problems with calls for tender**

The Ombudsman criticised the Commission for failing to comply with the rules governing a tender procedure, after a complaint from a Brussels-based consortium. It appeared that the Commission had provided incorrect information in reply to the complainant's request for clarifications concerning the tender *Monitoring the implementation of projects* (Takis and





Balkans). (1351/2001/(ME)(MF)BB)

### **Contractual disputes**

The Commission settled a contractual dispute with a Vienna-based social science research centre after the Ombudsman looked into the case. The Commission had argued that an amount of almost €30,000 could not be taken into account since this would involve a transfer between cost categories requiring prior authorisation. After the complainants accepted the Commission's interpretation of such transfers and understood that, as a result, €9,000 could not be included in the final payment, the sum outstanding was paid. The complainants were satisfied with the settlement. (1915/2002/BB)

### **Lack of courtesy**

The Ombudsman criticised the Parliament for not complying with the obligation to be courteous in relations with the public. The criticism concerned an e-mail sent in response to inquiries about a call for tenders. The complainant - a Greek association of translation companies - alleged that the tone of the e-mail was inappropriate and created an impression of arrogant behaviour. (1565/2002/GG)

The Ombudsman criticised the Economic and Social Committee for failing to comply with the duty to act courteously. A Luxembourg-based citizen complained after the Committee accused him of providing "false" information regarding a competition which he claimed, in good faith, to have passed. The Ombudsman pointed out that if an error occurs, which negatively affects the rights or interests of a member of the public, the institution shall apologise for it and endeavour to correct the negative effects resulting from this error. ECOSOC failed to do so in this case. (852/2003/OV)

### **Discrimination**

The Commission opened an infringement procedure into possible discrimination in Sweden after an investigation by the Ombudsman. The case concerned a German national who was studying in Sweden and who had to pay a deposit to a telecommunications company for a telephone subscription. As Swedish nationals with a social security number did not have to pay the deposit, the student said that the company was indirectly discriminating against other EU nationals. The Ombudsman agreed and called on the Commission to pursue the case. (1045/2002/GG)

The Commission took action to avoid the publication of job announcements that discriminated on the basis of language. This followed a complaint made on behalf of the Italian-based Universala Esperanto-Asocio (World Esperanto Association), concerning alleged linguistic discrimination by several European organisations, financed partially or wholly by the Commission. By advertising vacancies requiring "English mother tongue" or "English native speakers", thousands of people appear to be discriminated against, said the complainant. (659/2002/IP)

### **Refusal of information**

The Parliament agreed to publish the names of successful candidates in recruitment competitions and to inform candidates accordingly in the notices of competition. This followed an investigation by the Ombudsman, who concluded that publication would be consistent with the Parliament's commitment to openness in the recruitment process. The Ombudsman's investigation was based on a complaint from a Finnish man who was unsuccessful in a



competition for typists. He wanted to know how many men were amongst the 32 best candidates but the Parliament refused to give him the information. (341/2001/(BB)IJH)

#### **Problems with infringement cases**

The Ombudsman found the Commission guilty of maladministration for not respecting a citizen's legitimate and reasonable expectations. This followed its failure to inform a Danish citizen why it had not reached a decision on his infringement complaint, despite promising to do so. The complaint concerned the Danish authorities' practice of taxing used cars imported from other EU Member States, which the complainant claimed was contrary to the rules on free movement. (1237/2002/(PB)OV)

#### **Failure to act consistently**

The Ombudsman criticised the Commission for not acting consistently in a research contract with the Irish Sea Fisheries Board. This followed a complaint from the responsible scientist on the contract, who argued that the Commission had neglected to examine a final report that substantially modified the draft that it had approved over one year earlier. He claimed that the Fisheries Board had received instructions to make substantial changes to the draft final report, deleting, negating or diluting its findings. The complainant argued that the Commission should have sought explanations for the changes. (754/2003/GG)

#### **Irregularities in recruitment**

The European Personnel Selection Office accepted a Cypriot citizen's application for an open competition after the Ombudsman intervened. EPSO had initially rejected the application because it was not submitted in the correct way. The citizen alleged, however, that, due to technical problems with EPSO's server, applicants had been unable to carry out their compulsory electronic registration prior to the closing time foreseen by the notice of competition. (OI/4/2003/ADB)

#### **Staff problems**

The Commission agreed to pay additional *ex gratia* compensation to a complainant in view of the exceptional nature of the case, although it considered that it had no legal obligation to do so. The complainant worked for the institution and alleged that the Commission had failed to pay her the entire amount of the secretarial allowance to which she was entitled. (1166/2002/(SM)IJH)

To read about these, and other, cases dealt with by the Ombudsman, please visit:

<http://www.ombudsman.europa.eu/decision/en/default.htm> [Link]

(1) This figure has been calculated by dividing the percentage of total complaints by the percentage of population.