



European  
Ombudsman

Overview  
**2010**

**Dear reader,**

Welcome to the Ombudsman's new-look *Overview 2010*.

This publication records the most important results obtained for complainants over the past year and outlines the main challenges and opportunities facing the institution.

### **Fifteen years of the European Ombudsman**

This year's *Overview* reflects the institution's new visual identity, which was launched on the fifteenth anniversary of our institution – 27 September 2010. I am confident that our new visual identity will help us to project the image of an institution that is accessible, fair, and citizen-centred. The event we held to mark our anniversary also saw the launch of a strategy for the Ombudsman's 2009-2014 mandate. The strategy outlines a series of objectives and priorities, which are designed to achieve the Ombudsman's overarching aims of, first, ensuring that EU citizens enjoy their rights fully, and, second, enhancing the quality of the EU administration. It is available in 23 languages on our website.



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### **Results for complainants in 2010**

During 2010 we made good progress towards achieving these aims – in over half of the cases closed, the institution concerned accepted a friendly solution or settled the matter, while a further seven cases were closed when the institution accepted a draft recommendation. Ten star cases, highlighted in the following pages, serve as examples of best practice in reacting to complaints. I particularly applaud the institutions as a whole for their efforts to ensure that the wider lessons from complaint-handling are learnt across the administration. A good example of this in 2010 is the European Medicines Agency (EMA). By taking the important policy step of adopting and publishing a new access to documents policy, EMA gave wider effect to two recommendations that I made to it.

I submitted one Special Report to the European Parliament in 2010, concerning the European Commission's failure to co-operate with the Ombudsman sincerely and in good faith in dealing with the case concerned. On a more positive note, critical remarks had to be issued in only 33 cases, compared to 35 in 2009 and 44 in 2008. I will continue to publish an annual study on the follow-up given by the institutions to critical and further remarks, with an eye to better monitoring the further deepening of their adherence to principles of good administration.



More than 19 000 people used the interactive guide on our website to obtain advice on the most appropriate avenue of redress. As more individuals found the right address for themselves, we received 409 fewer “outside the mandate” complaints. As a result, the total number of complaints fell from 3 098 in 2009 to 2 667 in 2010. In over 70% of cases, we were able to help the complainant by opening an inquiry, transferring the case, or giving advice. Over 50% of cases were within the competence of a member of the European Network of Ombudsmen, once again proving the value of our co-operation at this level. We also launched a new visual identity for the Network in 2010 to raise awareness about the important service that national and regional ombudsmen provide to citizens.

#### **The Lisbon Treaty – one year on**

Upon my re-election as Ombudsman in January 2010, I announced that one of my main priorities would be to help ensure that the EU delivers the benefits for citizens promised by the Treaty of Lisbon. Early in 2010, I responded to the public consultation on how the European Citizens’ Initiative should work in practice. The Ombudsman also promoted the application by the institutions of the Charter of Fundamental Rights, most notably through inquiries on issues such as the fundamental

right to good administration, including the important principle of fairness, the rights of persons with disabilities, and the right of access to documents. With regard to the latter, once again in 2010, transparency constituted the most significant category in terms of the subject matter of inquiries, with 33% of all inquiries concerning this issue.

The Ombudsman opened 323 inquiries on the basis of complaints, compared to 335 in 2009. Six own-initiative inquiries were launched into systemic issues and concerned the Parliament, the Council, the Commission, and the European Personnel Selection Office (EPSO). I look forward to receiving constructive responses from the institutions in 2011 on the important issues raised in these inquiries.

Strasbourg, 31 January 2011

P. Nikiforos Diamandouros

The European Ombudsman investigates complaints about maladministration in the EU institutions, bodies, offices, and agencies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible, and free means of solving problems with the EU administration. For further information in the 23 official EU languages, please visit <http://www.ombudsman.europa.eu>, where you will also find this *Overview*, the cases mentioned in this publication, as well as the full *Annual Report 2010* – available in English from May 2011 and in all official languages from July 2011.

## Selection of cases dealt with in 2010

The following cases cover the main categories of complaints dealt with in 2010 and include all of the year's star cases, which are highlighted in blue.

### Transparency

The European Medicines Agency (EMA) gave public access to documents concerning two anti-obesity drugs and proceeded to adopt and publish a new policy aimed at giving much broader access to documents in its possession (2560/2007/BEH).

Following a journalist's complaint, Parliament agreed to grant access to documents relating to the financing of its acquisition of certain buildings in Brussels and gave additional information on the procedure it had followed to secure external financing (793/2007/BEH).

The European Investment Bank (EIB) contacted the authorities of Tajikistan with a view to providing access to a Framework Agreement that had been requested by an NGO. The Tajikistan authorities published the agreement and, the following day, the EIB informed the complainant (2145/2009/RT).

In a case concerning documents relating to the construction of an industrial port in Granadilla, Spain, the Ombudsman pointed out that, if Member States request the Commission not to release documents it receives from them, they must give convincing arguments based on EU transparency rules. The Ombudsman welcomed the Commission's decision to release its own internal documents in this case (355/2007/FOR).

### Infringement cases

The Ombudsman criticised the Commission for failing to provide correct, clear, and understandable reasons for the exercise of its discretionary powers, when closing an infringement case against Austria regarding the total ban on the keeping of wild animals in circuses (3307/2006/JMA).

### Contracts and tenders

The Commission paid a German association EUR 6 025, plus EUR 1 586 in interest, after the Ombudsman asked it to reconsider the complainant's claim that it had wrongly reduced the final project payment (3249/2008/KM).

### Rights of persons with disabilities

The Commission granted a reserved parking space to an official with disabilities for the remaining two years of her career. The official, who had had a serious accident, alleged that the Commission failed to handle her application for the space fairly and properly (1226/2008/OV).

In a case concerning support to the dependent, disabled family members of Council officials, the Ombudsman found that the Council had fully implemented the relevant statutory rights, provided for appropriate internal measures to allow for these rights to be exercised, and adopted additional measures which went beyond the rights guaranteed by the Staff Regulations (129/2009/VL).

### Recruitment

The European Economic and Social Committee agreed to pay the complainant EUR 3 965 as a financial settlement for the material expenses she suffered after it wrongly informed her that she had been selected for recruitment (2924/2007/TS).

### Fairness

The Education, Audiovisual and Culture Executive Agency cancelled its reimbursement claim for EUR 2 364 and paid the complainant an additional EUR 2 722 after the Ombudsman pointed out that the NGO had made an obvious error when it filled in the grant application form (255/2009/JF).

The Commission cancelled its claim for reimbursement for payment made to an auxiliary agent after the Ombudsman called on it to take responsibility for repeated mistakes it had made. The complainant had also referred to her difficult financial situation (906/2009/JF).

### Institutional and policy issues

The European Aviation Safety Agency (EASA) apologised to the complainant and revised its formal warnings after the Ombudsman found that, in the circumstances of this case, the warning was disproportionate, abusive, and even potentially illegal. EASA further informed the Ombudsman that it envisaged proposing changes to the applicable legislation (1182/2009/JF).

## How many complaints and inquiries?

The Ombudsman registered 2 667 complaints in 2010, of which 744 were within the mandate (compared to 3 098 complaints, of which 727 within the mandate, in 2009). He opened 335 inquiries (compared to 339 in 2009) and completed 326 inquiries during the year (318 in 2009). In total, the Ombudsman handled over 3 700 complaints and information requests.

### What action taken by the Ombudsman?

In over 70% of cases processed (1 997), the Ombudsman was able to help the complainant by opening an inquiry, transferring the case to a competent body, or giving advice on where to turn.

With regard to transfers and advice, 50% of complainants were directed to a member of the European Network of Ombudsmen, i.e., a national or regional ombudsman in the Member States, or the European Parliament's Committee on Petitions. A total of 13% were referred to the Commission, while 43% were encouraged to contact other bodies, including SOLVIT, which handles problems with a cross-border element that are due to bad application of EU law by public authorities within the EU Member States.

Note: In some cases, more than one type of advice was given to a complainant. These percentages therefore total more than 100%.

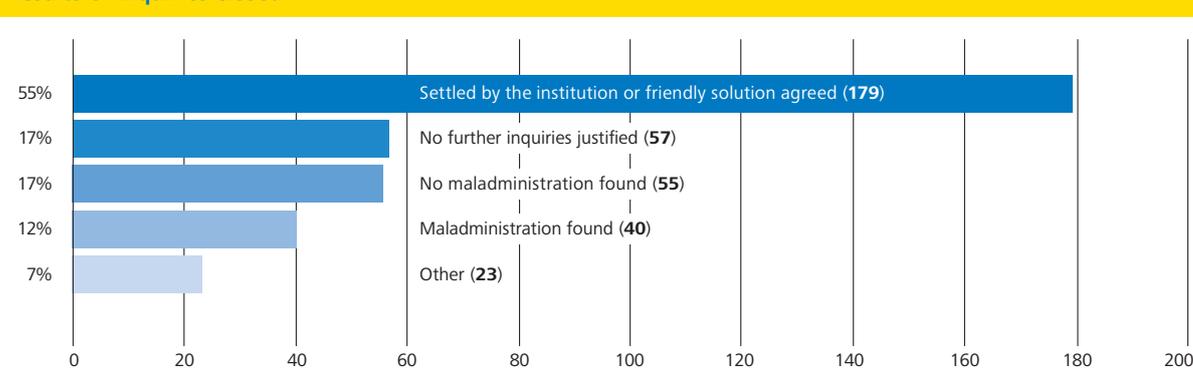
### Source of complaints leading to inquiries closed

Individual citizens	78%	(254)
Companies and associations	22%	(72)

### What results from the inquiries carried out?

In 179 cases closed in 2010, a positive outcome was achieved when the institution concerned accepted a friendly solution or settled the matter. No maladministration was found in 55 cases. Maladministration was found in 40 cases: the institution accepted a draft recommendation in seven of these (compared to two in 2009), while 33 cases were closed with critical remarks, including one which resulted in a special report to Parliament. In 14 cases, the Ombudsman made further remarks to help improve future performance.

### Results of inquiries closed



Note: In some cases, inquiries were closed on two or more grounds. These percentages therefore total more than 100%.

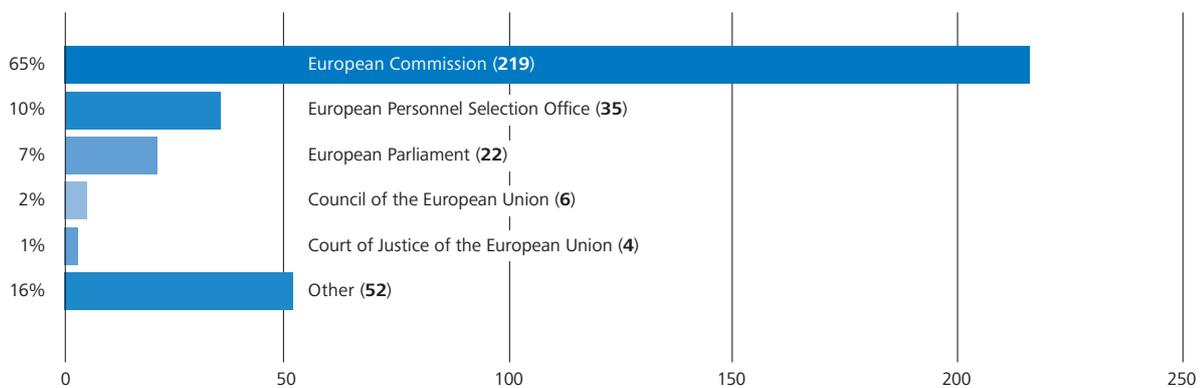
### Inquiries concerning which institutions, bodies, offices, or agencies?

Most inquiries opened in 2010 (219 cases) concerned the Commission (65%). The comparable figure for 2009 was 191. Since the Commission is the main Union institution that makes decisions having a direct impact on citizens, it is normal that it should be the principal object of complaints. Next came EPSCO with 35 inquiries (30 in 2009). The number of inquiries opened concerning Parliament, Council, and the Court of Justice of the EU fell by around half compared to 2009. It is important to mention that the Ombudsman can only open inquiries into the Court's non-judicial work.

### Inquiries concerning what type of maladministration?

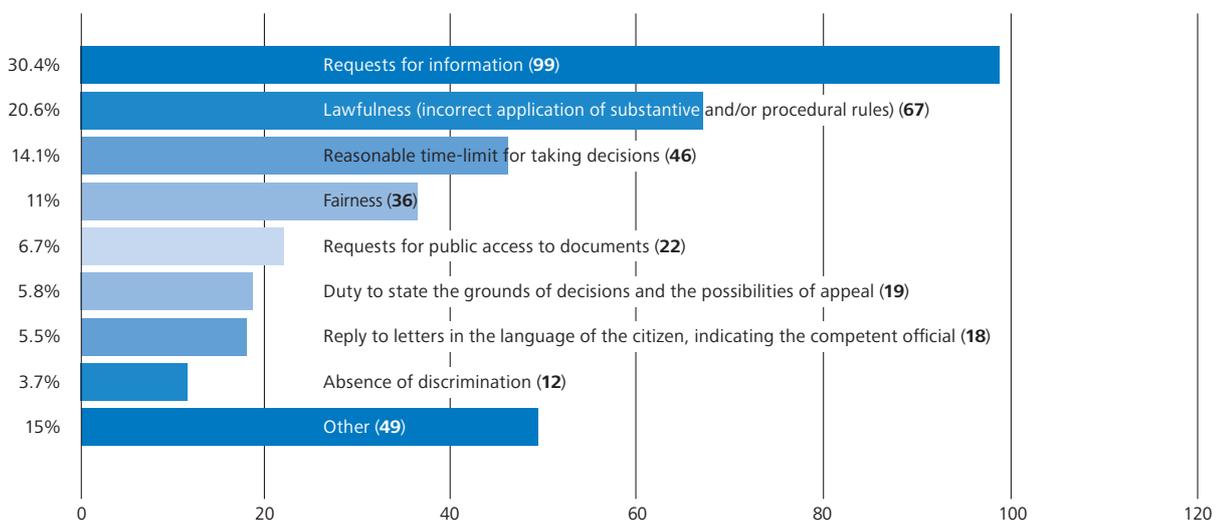
Maladministration occurs when an institution fails to act in accordance with the law, fails to respect the principles of good administration, or when it violates fundamental rights. The main types of maladministration investigated by the Ombudsman in 2010 concerned (i) breaches of lawfulness or fairness, (ii) breaches of duties relating to requests for information and time limits for taking decisions.

#### Institutions and bodies subject to inquiry



Note: Two inquiries opened in 2010 were own-initiative inquiries addressed to more than one institution. These percentages therefore total more than 100%.

#### Types of maladministration alleged – (i) breach of, or (ii) breach of duties relating to:



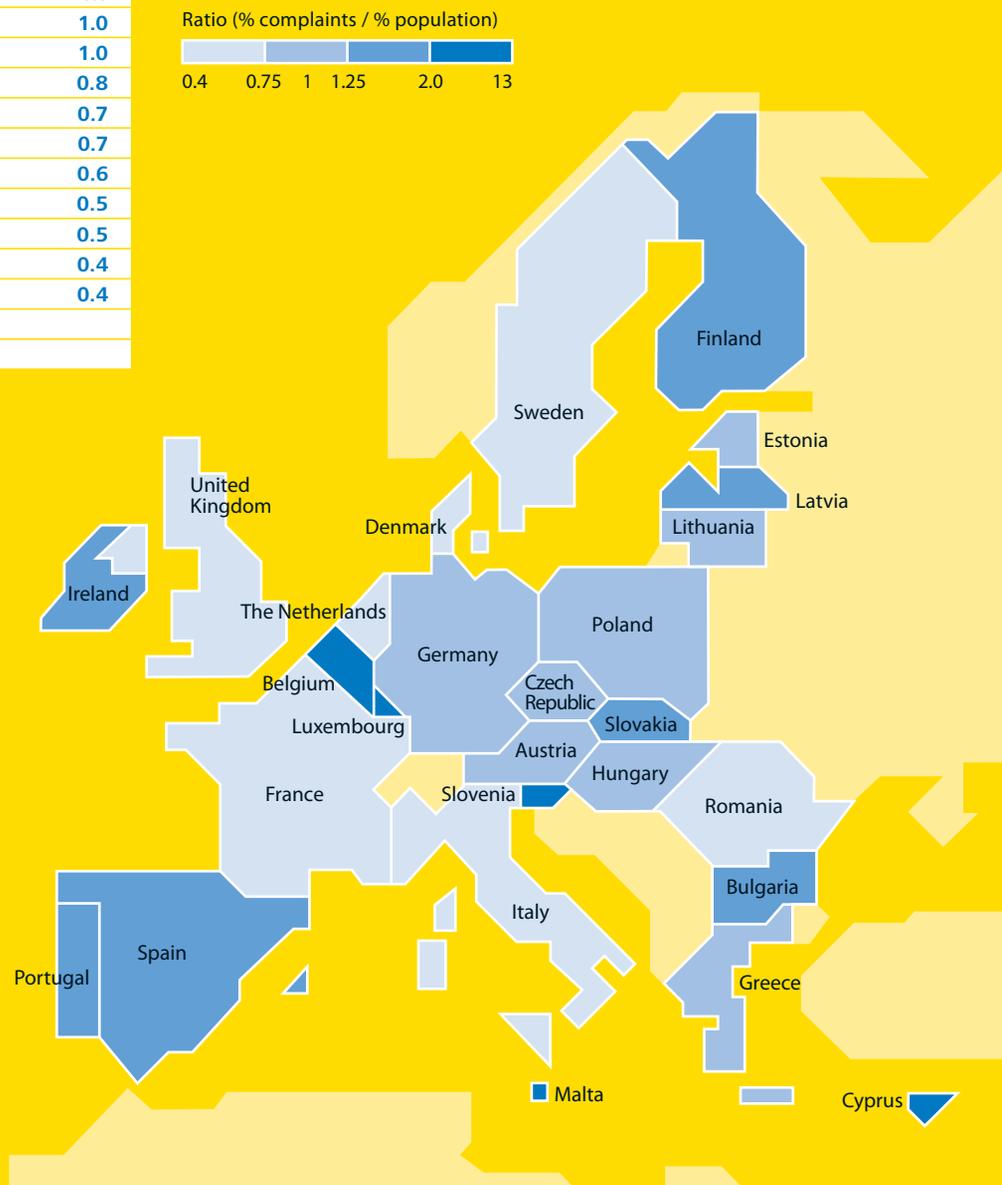
Note: In some cases, two or more alleged types of maladministration were examined in the same inquiry. These percentages therefore total more than 100%.

## Complaints from whom?

The map below shows how likely people in each Member State are to complain to the European Ombudsman. It is based on the number of complaints from each country relative to the size of its population. The absolute number of complaints per country is also given.

Country	Number of Complaints	Ratio
Luxembourg	34	12.7
Cyprus	22	4.1
Belgium	207	3.7
Malta	9	3.4
Slovenia	34	3.2
Latvia	21	1.6
Bulgaria	63	1.5
Slovakia	43	1.5
Spain	349	1.5
Ireland	32	1.3
Finland	39	1.3
Portugal	71	1.3
Estonia	9	1.1
Czech Republic	63	1.1
Lithuania	20	1.1
Greece	65	1.1
Austria	48	1.1
Poland	214	1.0
Hungary	51	1.0
Germany	375	0.8
The Netherlands	60	0.7
Sweden	32	0.7
Romania	73	0.6
Denmark	16	0.5
France	171	0.5
Italy	132	0.4
United Kingdom	132	0.4
Others	131	
Not known	151	

Note: The complaint ratio has been calculated by dividing the percentage of total complaints from each Member State by its percentage of the total EU population. Where it is greater than 1, this indicates that the country in question submitted more complaints to the Ombudsman than might be expected given the size of its population.



If you require a large print version of this publication, please contact the European Ombudsman's office. We shall also endeavour to provide an audio version upon request.

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This *Overview* is published on the Internet at:  
<http://www.ombudsman.europa.eu>

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Design and layout by Rosendahls - Schultz Grafisk, Albertslund, Denmark, and EntenEller A/S, Valby, Denmark.

Set in FrutigerNext and Palatino.

Printed in Luxembourg

ISBN 978-92-9212-280-5 . ISSN 1831-3582 . doi:10.2869/37273 . QK-AD-11-001-EN-C



Publications Office



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