

Европейски омбудсман

El Defensor del Pueblo Europeo

Evropský veřejný ochránce práv

Den Europæiske Ombudsmand

Der Europäische Bürgerbeauftragte

Euroopa ombudsman

Ο Ευρωπαίος Διαμεσολαβητής

 The European Ombudsman

Le Médiateur européen

An tOmbudsman Eorpach

Il Mediatore europeo

Eiropas ombuds

Europos ombudsmenas

Az Európai Ombudsman

L-Ombudsman Ewropew

De Europese Ombudsman

Europejski Rzecznik Praw Obywatelskich

O Provedor de Justiça Europeu

Ombudsmanul European

Európský ombudsman

Evropski varuh človekovih pravic

Euroopan oikeusasiamies

Europeiska ombudsmannen

■ Overview

The European Ombudsman

2008

Dear reader,

WELCOME to the Ombudsman's "Overview 2008". This new publication records, in a concise manner, the most important results obtained for complainants and the main policy issues dealt with over the past year. I hope you find it helpful in understanding the Ombudsman's work.

Bringing the Union closer to its citizens

I often say that the way an institution reacts to complaints is a key indicator of how citizen-centred it is. In 36% of cases closed in 2008, the institution concerned accepted a friendly solution or settled the matter. A total of eight cases serve as examples of best practice in reacting to issues that the Ombudsman raises. Five of these "star cases" are highlighted on the next two pages. The other three relate to the European Commission (case 2672/2008/VL), the European Court of Justice (2448/2008/WP), and, for the third year running, the European Aviation Safety Agency (893/2006/BU).

Not all responses to the Ombudsman's inquiries were as exemplary, however. The Commission refused to change its stance in an age discrimination case. This refusal led me to submit to Parliament the only special report I issued in 2008. While the number of inquiries in which I had to address critical remarks to the EU institutions dropped to 44 (from 55 in 2007), they are still too many. To help the institutions and bodies improve their performance, I published two studies on my website, in 2008, regarding the follow-up given by the institutions concerned to critical and further remarks made in 2006 and 2007.

Acting as guardian of transparency

A record number of inquiries (355) was closed in 2008, with most taking less than a year. In 2009, we aim to improve our performance by taking even less time to close cases. By far the most common allegation examined in inquiries opened in 2008 was lack of transparency (36% of inquiries). In each of these cases, I urged the EU institutions and bodies to ensure the highest levels of openness in their activities. Some cases involved data protection issues, which, of necessity, require an approach balancing privacy and transparency. In several of them, I consulted the European Data Protection Supervisor, whose advice was very helpful.

Of particular importance regarding transparency in 2008 was the Commission's proposal to reform the EU's rules on public access to documents. I voiced my concerns over certain aspects of this otherwise good proposal and encouraged the Parliament to use its role as co-legislator on this issue to ensure the best result for citizens. As part of my contribution to this debate, I conducted a comparative study among my colleagues in the European Network of Ombudsmen into best practice in the Member States relating to public access to information contained in databases. I drew inspiration from the results of this study to formulate concrete proposals relating to the reform of the EU's rules on access to documents.

Promoting a culture of service

The Ombudsman registered a total of 3 406 complaints in 2008. As always, we endeavoured to ensure that all those who might have a complaint to make are aware of the Ombudsman's services. For instance, with regard to businesses, NGOs, and other organisations, which have made relatively little use of the Ombudsman in the past, we publicised our own-initiative inquiry into the timeliness of payments by the Commission in order to highlight what we can concretely do for them.

In almost 80% of cases registered, we were able to help the complainant by opening an inquiry into the case, transferring it to a competent body, or giving advice on where to turn. Often, the advice is to contact a member of the European Network of Ombudsmen.



The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies. 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 www.ombudsman.europa.eu, where you will also find this Overview, the cases mentioned in this publication, as well as the full Annual Report 2008 (available in English from April 2009 and in all official languages from July 2009).

Regional ombudsmen in the Network met in Berlin in November to discuss how, together, we can improve the service we provide to citizens. I also continued to reach out to Members and officials of the EU institutions and bodies to encourage them to adopt a culture of service to citizens. Among the highlights in this regard were the signing of a Memorandum of Understanding with the President of the European Investment Bank and the agreement by the Union's Agencies to adopt the European Code of Good Administrative Behaviour in their relations with citizens.

One final important development in 2008 concerned the revision of the Ombudsman's Statute. The changes made ensure that citizens can have full confidence in the Ombudsman's ability to conduct a thorough investigation of their complaints without restrictions. I look forward to continuing my work for citizens on the basis of this even stronger mandate in 2009.

Strasbourg, 31 January 2009



P. Nikiforos DIAMANDOUROS

Selection of cases dealt with in 2008

IN 2008, the Ombudsman's inquiries covered issues ranging from transparency questions, to institutional and policy matters, to the Commission's role as guardian of the Treaty. They also concerned problems in open competitions and recruitment procedures, staff matters, as well as contractual disputes and problematic calls for tender. Some examples are given below, including five of the eight star cases identified in 2008.

Lack of transparency

→→→ The **European Personnel Selection Office** (EPSO) agreed to disclose to candidates, at their request, the evaluation criteria used in selection procedures, as well as a breakdown of individual marks. This followed an own-initiative inquiry by the Ombudsman, who praised EPSO for adopting such a transparent approach (OI/5/2005/PB).

→→→ In case 754/2007/BU, the **European Anti-Fraud Office** (OLAF) reacted constructively to a request for access to documents. By releasing two versions of the relevant report, one with the complainant's personal data and the other without, it

complied with the EU's access to documents rules, while demonstrating a citizen-centred approach.

The Ombudsman criticised the Commission for failing to set up a comprehensive register of the documents it produces or receives. This followed a complaint from the British NGO, Statewatch. Given that such a register should have been in place already in 2002, the Ombudsman called on the Commission to act quickly and the European Parliament, in a resolution, supported the Ombudsman's call (3208/2006/GG).

Contractual disputes

→→→ In two contractual cases, the Ombudsman praised the **Commission** for its constructive approach. In case 3490/2005/(ID)PB concerning a payment dispute with an Italian company over an EU project to supply water for displaced persons in Liberia, the Commission was thorough and constructive throughout the procedure, even to the point of accepting additional relevant payments identified by its own services and the complainant.

As a result, the Italian company received more than EUR 100 000.

→→→ In case 3784/2006/FOR concerning an Austrian institute involved in a research and development contract in the field of chemical engineering, the **Commission** agreed to pay EUR 54 000. This followed the Ombudsman's request that it reconsider its refusal to pay an outstanding sum because it had not received the final cost statements on time.

Problems with infringement complaints

The Ombudsman's inquiries revealed a series of problems concerning the way in which the Commission handles infringement complaints. In a case concerning Spanish legislation on increases in capital taxation, the Ombudsman criticised the Commission for taking too long and for failing to adequately inform the complainant, once it had decided to formally start an infringement proceeding. He made

suggestions as to how it might consider improving its procedures (3737/2006/(BM)JMA). The Commission was also criticised for failing to provide a sufficient and coherent explanation as to why it had decided to close a case concerning possible infringement of Community environmental law in an Italian road by-pass project (1962/2005/IP).

Possible age discrimination in recruitment

A Belgian freelance interpreter who had been hired by the institutions for specific meetings for more than 35 years complained to the Ombudsman after he stopped receiving job offers on turning 65. The Ombudsman confirmed that this constituted age discrimination and, in response, the Parliament changed its practice (186/2005/ELB). The Commission, on the other hand, failed to adequately justify why it treated freelance interpreters over 65 differently and refused to change its practice. Since the case raised an important issue of principle, the

Ombudsman submitted a special report to Parliament (185/2005/ELB).

→→→ In a case of alleged age discrimination by the **Council**, the Ombudsman did not find discrimination. The Council, however, agreed to make an *ex gratia* payment of EUR 1 000 in recognition of the inconvenience and stress that the complainant had suffered. The Council had first offered the complainant a one year contract and then changed the terms when it realised that the complainant would turn 65 during that period (1162/2007/FOR).

How many complaints and inquiries?

THE Ombudsman registered 3 406 complaints in 2008 (compared to 3 211 in 2007) and opened 296 inquiries (compared to 309 in 2007). He closed 355 inquiries during the year (348 in 2007). In total, the Ombudsman handled over 7 700 complaints and information requests.

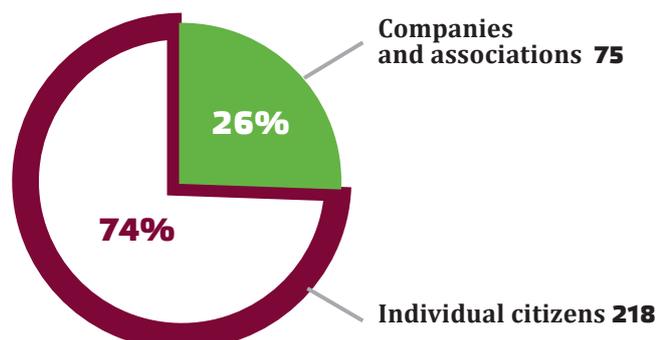
What action taken by the Ombudsman?

In almost 80% of cases processed (2 643), 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.

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

With regard to transfers and advice, 55% 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 17% were referred to the European Commission, while 36% were encouraged to contact other bodies such as SOLVIT, which deals with problems caused by the misapplication of internal market law by public authorities.

Source of complaints leading to inquiries

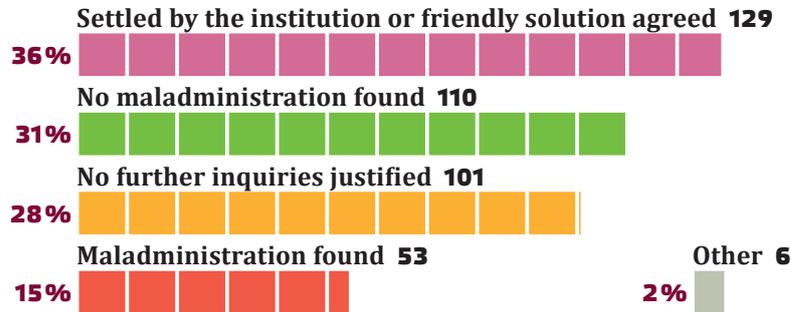


What results from the inquiries carried out?

In 129 cases closed in 2008, a positive outcome was achieved when the institution concerned accepted a friendly solution or settled the matter. No maladministration was found in 110 cases. The Ombudsman made further remarks to help improve future performance in 41 cases. Maladministration was found in 53 cases: eight led to a draft recommendation being accepted by the institution, one led to a special report to Parliament, while 44 were closed with critical remarks.

 = 10 cases

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

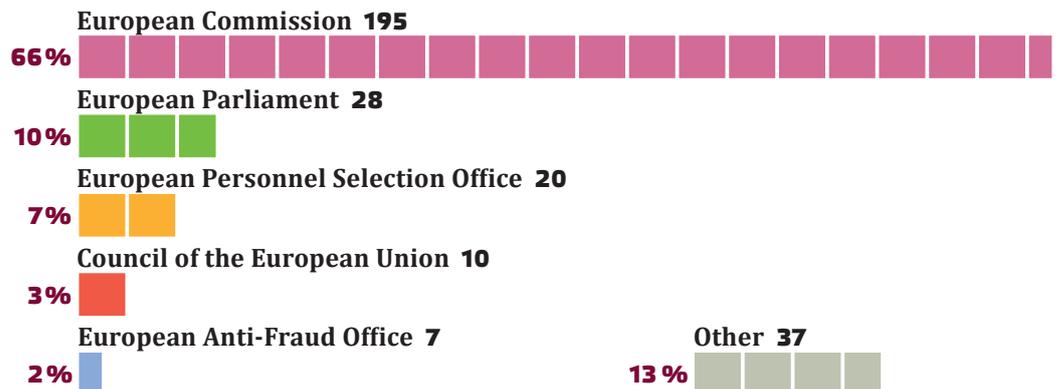


Inquiries carried out concerning which institutions and bodies?

Most inquiries opened in 2008 concerned the European Commission (66%). As the Commission is the main Community institution that makes decisions having a direct impact on citizens, it is normal that it should be the principal object of citizens' complaints.

 = 10 cases

NOTE In one case, the same inquiry concerned two institutions. These percentages therefore total more than 100%.

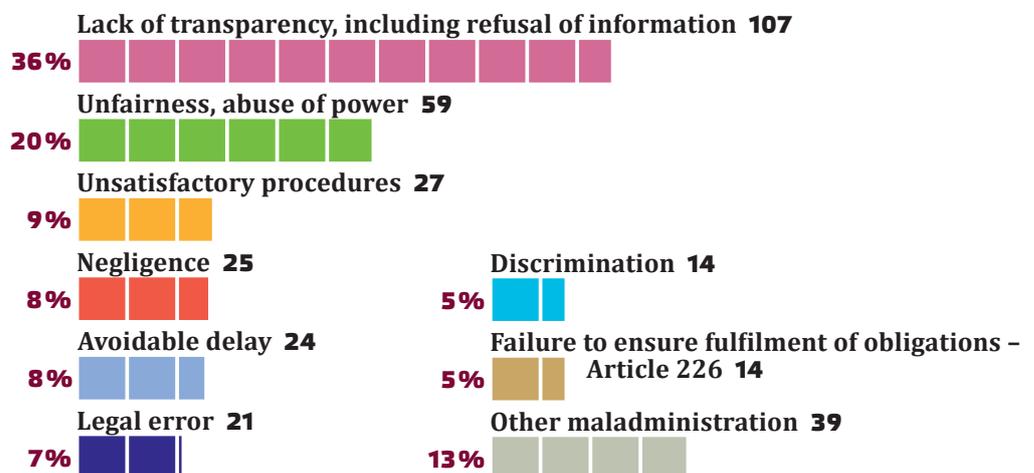


Inquiries concerning what type of maladministration?

Maladministration occurs if an institution fails to act in accordance with the law, fails to respect the principles of good administration, or if it violates fundamental rights. The most common allegation of maladministration dealt with by the Ombudsman in 2008 was lack of transparency (in 36% of inquiries opened).

 = 10 cases

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

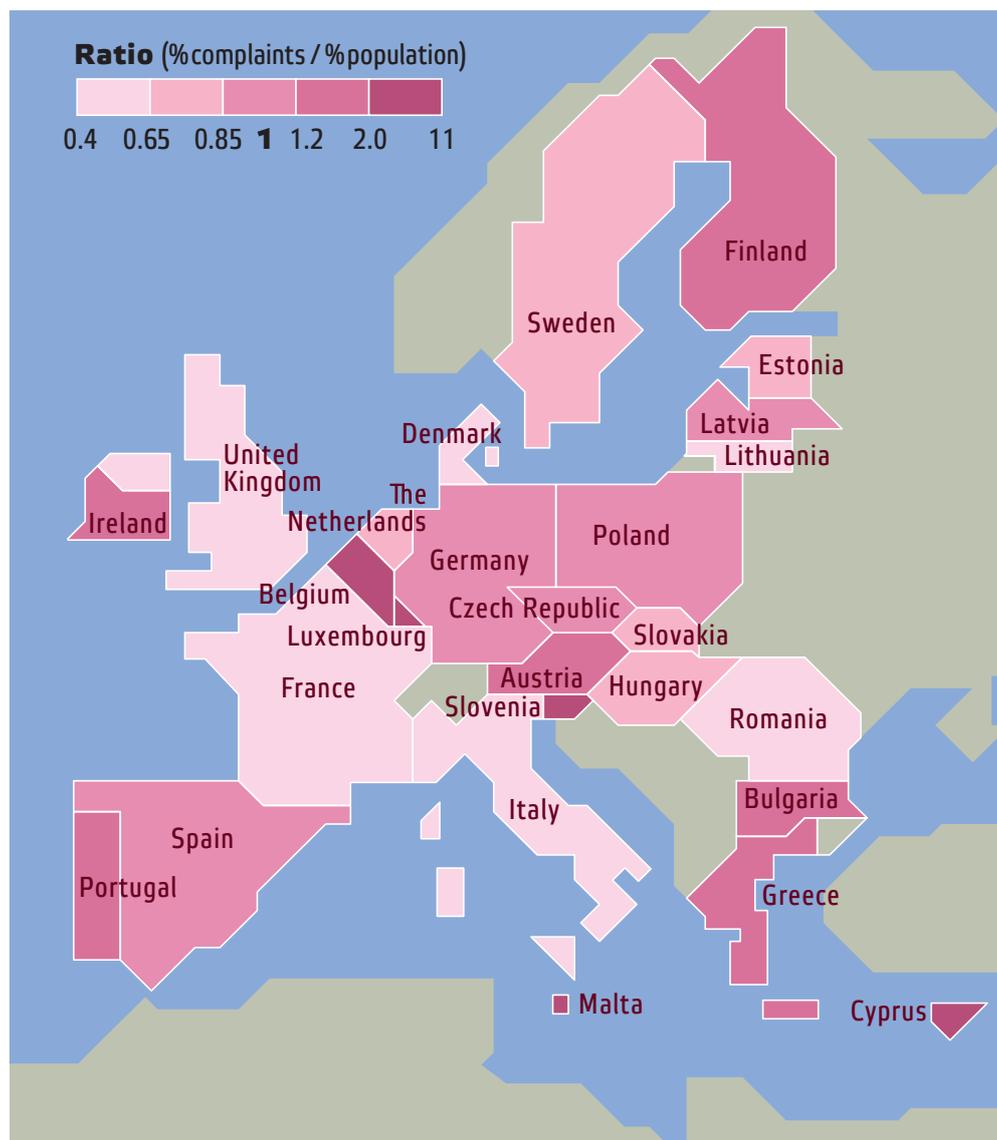


Complaints from whom?

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 1.0, this indicates that the country in question submitted more complaints to the Ombudsman than might be expected given the size of its population.

| Country | cases |
|-----------------|-------|
| Germany | 546 |
| Spain | 352 |
| Poland | 270 |
| France | 240 |
| Belgium | 229 |
| Italy | 219 |
| United Kingdom | 197 |
| Greece | 110 |
| Austria | 108 |
| Romania | 97 |
| Portugal | 95 |
| The Netherlands | 78 |
| Bulgaria | 74 |
| Czech Republic | 66 |
| Sweden | 52 |
| Finland | 49 |
| Hungary | 46 |
| Ireland | 45 |
| Slovenia | 41 |
| Malta | 36 |
| Cyprus | 35 |
| Luxembourg | 33 |
| Slovakia | 29 |
| Denmark | 23 |
| Latvia | 18 |
| Lithuania | 11 |
| Estonia | 7 |
| Others | 221 |
| Not known | 79 |

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 Member State relative to the size of its population. The absolute number of complaints per Member State is also given.



European Ombudsman

1 Avenue du Président Robert Schuman
 CS 30403
 67001 Strasbourg
 FRANCE
 Tel. +33 3 88 17 23 13
 Fax +33 3 88 17 90 62

→→→ www.ombudsman.europa.eu

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