

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

# 2009

**Dear reader,** **W**ELCOME to the Ombudsman's "Overview 2009". This publication records the most important results obtained for complainants over the past year and takes a look at the main challenges and opportunities facing the institution.

### **An important year for ombudsmen**

The year 2009 was the 200<sup>th</sup> anniversary of the ombudsman institution and colleagues from all over the world celebrated this event in Stockholm in June. From the perspective of the European Ombudsman, it saw the start of our fifteenth year of operation. It also marked the end of my first full mandate as Ombudsman. The European Parliament's decision on 20 January this year to re-elect me to a second full mandate constitutes, I believe, an endorsement of the work this office has been doing and encourages us to continue to strive for a more open, accountable, service-minded, and citizen-centred EU administration.

It is an exciting time to be leading this institution. One of the Ombudsman's main priorities over the next five years will be to help to ensure that the EU delivers the benefits for citizens promised by the Treaty of Lisbon. In this context, I will promote, in particular, the fundamental right to good administration, as laid down in the EU Charter of Fundamental Rights. Given the high number of inquiries that I carry out each year into lack of transparency (36% of inquiries in 2009), I will also continue to insist on the fundamental right of access to documents. And I will ensure that the right to address the Ombudsman and to petition Parliament are both known and properly used, so that citizens can best seek redress.

### **A good year in terms of results**

A second priority for the Ombudsman will be strengthening the culture of service in the EU administration. It is obvious from their responses to my inquiries that the Union institutions, bodies, offices and agencies already adhere to a high standard of administrative practice. In over half of the cases closed in 2009 (56%), the institution concerned accepted a friendly solution or settled the matter. This compares with 36% in 2008. A total of nine star cases, highlighted in the following pages, serve as examples of best practice in reacting to complaints.

Four own-initiative inquiries were launched into systemic issues in the European Commission, such as the timeliness of payments and access to documents in infringement cases. The Ombudsman also dealt with a range of cases on important points of principle, such as the need to document properly relevant meetings and reviews. These cases are also summarised in the next section.

While the Ombudsman only had to make critical remarks to the institutions in 35 cases, compared to 44 in 2008 and 55 in 2007, there is still room for further improvement. To that end, I will continue to follow up the institutions' responses to critical and further remarks by publishing an annual study on my website.

Improving the quality of administration for the benefit of citizens is the touchstone for all of the Ombudsman's actions. With regard to the work of my own office, I am happy to report that the time taken to complete inquiries fell from an average of 13 months in 2008 to nine months in 2009. We aim to reduce even further the time taken to achieve results through inquiries.

### **A busy year communicating**

The year 2009 began with the launch of the Ombudsman's new website, which contains an interactive guide to help identify the most appropriate body to turn to with complaints. The guide has been a great success, providing advice to more than 26 000 people during the year. The number of complaints to our office fell from 3 406 in 2008 to 3 098 in 2009



**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 2009* (available in English from April 2010 and in all official languages from July 2010).

as more individuals began to find the right address the first time around. This is a source of great encouragement to me. To further ensure this, we stepped up co-operation during the year with other information and problem-solving networks, such as Europe Direct and SOLVIT.

We intensified our efforts to reach out to potential complainants, organising a range of events with NGOs, interest groups, businesses, and think tanks. This effort led to a rise in the number of inquiries opened, from 293 to 335, based on complaints received. Of the total number of complaints leading to inquiries, 16% were submitted by companies and associations and 84% by individuals.

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. Over 55% of cases were within the competence of a member of the European Network of Ombudsmen, thereby confirming the need to further strengthen co-operation among the European, national, and regional ombudsmen and petitions committees in the Network.

One final important development in 2009 was the adoption of a mission statement for the institution. It reads as follows:

*The European Ombudsman seeks fair outcomes to complaints against European Union institutions, encourages transparency and promotes an administrative culture of service. He aims to build trust through dialogue between citizens and the European Union and to foster the highest standards of behaviour in the Union's institutions.*

I look forward to working with my staff in vigorously pursuing these goals in the years to come.

Strasbourg, 31 January 2010



P. Nikiforos DIAMANDOUROS

## Selection of cases dealt with in 2009

**S**OME examples of inquiries carried out by the Ombudsman are given below. These cover the main categories of complaints and include all of the star cases identified in 2009.

## Institutional and policy issues

The Ombudsman criticised the Commission for failing to make a proper note of a meeting during an anti-trust investigation, even though the meeting directly concerned the investigation. This followed a complaint from the micro-processor producer, Intel (1935/2008/FOR).

The European Investment Bank agreed to improve the way it documents reviews of environmental impact assessments, after the Ombudsman found shortcomings in its procedure. This concerned

its decision to co-finance the high-speed railway project connecting Madrid and the French border (244/2006/(BM)JMA).

The Commission acknowledged that it would have been better not to allow two high ranking officials, who dealt with anti-dumping cases, to accept VIP rugby tickets from a sportswear supplier. An NGO alleged that this could have resulted in a conflict of interest (1341/2008/MHZ).

## Lack of transparency

→→→ The **European Anti-Fraud Office** agreed to release a long list of documents after consulting the relevant judicial authorities of the Member States concerned. Two Belgian companies had asked for the documents (joined cases 723/2005/OV and 790/2005/OV).

→→→ The **European Personnel Selection Office** (EPSO) agreed to allow all candidates, and not just candidates who had not succeeded, to have access to their test marks. This followed a complaint about the fact that successful candidates could not find out what marks they received (2346/2007/JMA).

## Contractual disputes and problems with tenders

→→→ The **Commission** agreed to examine whether it could retroactively authorise the use of sub-contracting with a view to cancelling a recovery order of almost EUR 500 000. The Ombudsman called on the Commission to reconsider its position, since the complainant had successfully completed the three projects in question (2119/2007/ELB).

→→→ The **Education, Audiovisual and Culture Executive Agency** apologised in a case concerning the rejection of a grant application and announced that it had taken steps to remedy the problems identified. It also agreed to re-assess the application (1537/2008/(TJ)GG).

## Infringement complaints

→→→ The Ombudsman praised the **Commission** for its support to a German citizen in a case concerning air passenger rights. The Commission actively pursued the complainant's case and contacted the French authorities concerned to ensure that the relevant rules were correctly applied (2980/2008/GG).

→→→ The **Commission** re-opened an infringement procedure to check whether the landfill site at Malagrotta, near Rome, had been brought into compliance with the relevant Directive. This followed an Ombudsman inquiry (791/2005/(IP)FOR).

## Recruitment issues

→→→ The **Executive Agency for Competitive-ness and Innovation** apologised and gave additional explanations to an unsuccessful candidate, while also affirming that it would identify measures to improve its officials' awareness of applicable administrative standards (1562/2008/BB).

→→→ The **European Research Council Executive Agency** agreed to invite the complainant for an interview and confirmed that, in future, it would give unsuccessful applicants adequate information about possible means of redress (2003/2008/TS).

## Fairness

→→→ The **Commission** agreed to cancel a recovery order, acknowledging that the reimbursement would put the complainant in a very precarious

financial situation. The Ombudsman applauded the Commission for showing that it can be sensitive in difficult personal situations (1908/2007/JF).

## How many complaints and inquiries?

**T**HE Ombudsman registered 3 098 complaints in 2009 (compared to 3 406 in 2008) and opened 339 inquiries (compared to 296 in 2008). He completed 318 inquiries during the year (355 in 2008). In total, the Ombudsman handled almost 5 000 complaints and information requests.

## What action taken by the Ombudsman?

In almost 80% of cases processed (2 423), 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%.

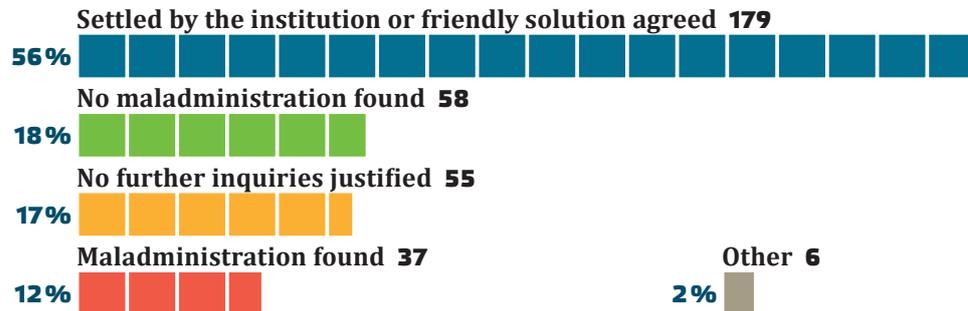
With regard to transfers and advice, 53% of complainants were directed to a member of the European Network of Ombudsmen, i.e., a national or regional ombudsman in the Member States, or the European Parliament's Committee on Petitions. A total of 18% were referred to the European Commission, while 45% were encouraged to contact other bodies, including SOLVIT, which deals with problems caused by the misapplication of internal market law by public authorities.

## What results from the inquiries carried out?

In 179 cases closed in 2009, a positive outcome was achieved when the institution concerned accepted a friendly solution or settled the matter. No maladministration was found in 58 cases. The Ombudsman made further remarks to help improve future performance in 28 cases. Maladministration was found in 37 cases: two led to draft recommendations being accepted by the institution, while 35 were closed with critical remarks.

 = 10 cases

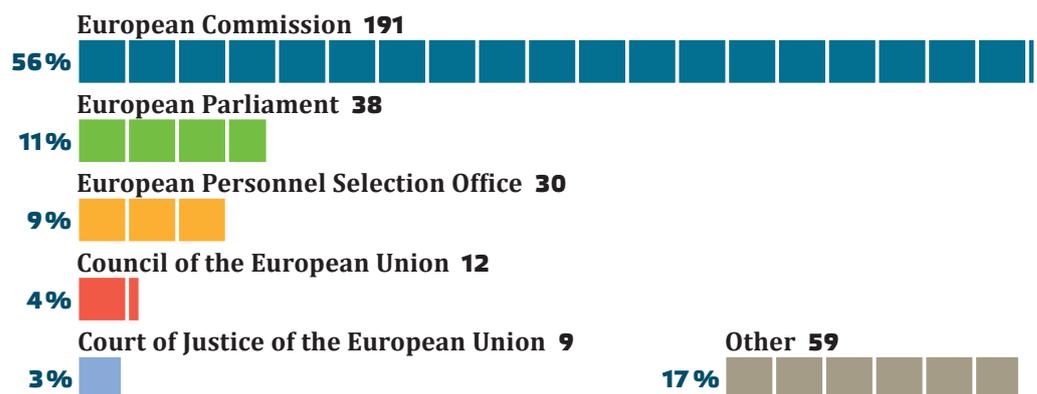
NOTE In some cases, inquiries were closed on two or more grounds. These percentages therefore total more than 100%.



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

Most inquiries opened in 2009 concerned the European Commission (56%). As 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 citizens' complaints. It is worth noting, however, that while the absolute number of inquiries opened concerning the Commission fell by four in 2009, the number of inquiries opened regarding the Parliament, Epso, the Council and the Court of Justice of the European Union increased (by ten, ten, two and six inquiries respectively). With regard to the Court, it is important to mention that the Ombudsman can only open inquiries into its non-judicial work.

 = 10 cases

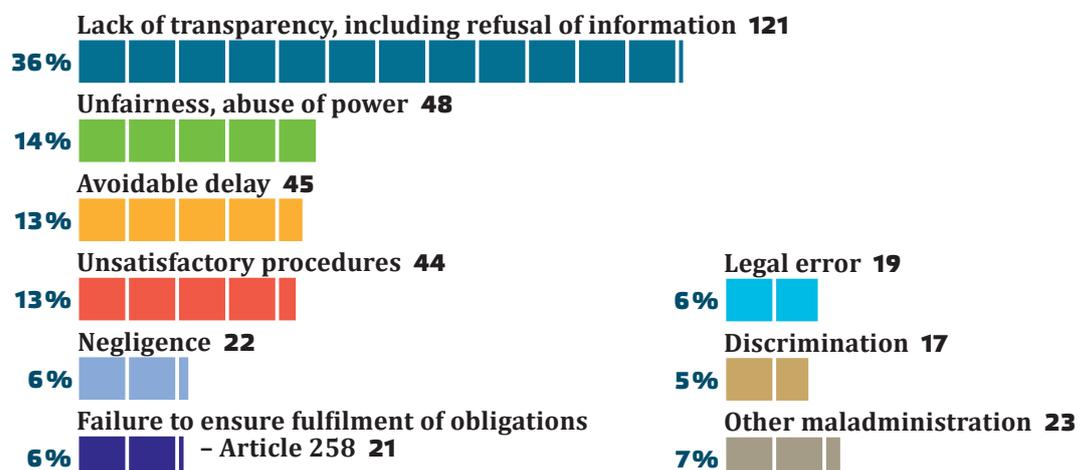


## Inquiries concerning what type of maladministration?

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 most common allegation of maladministration dealt with by the Ombudsman in 2009 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%.

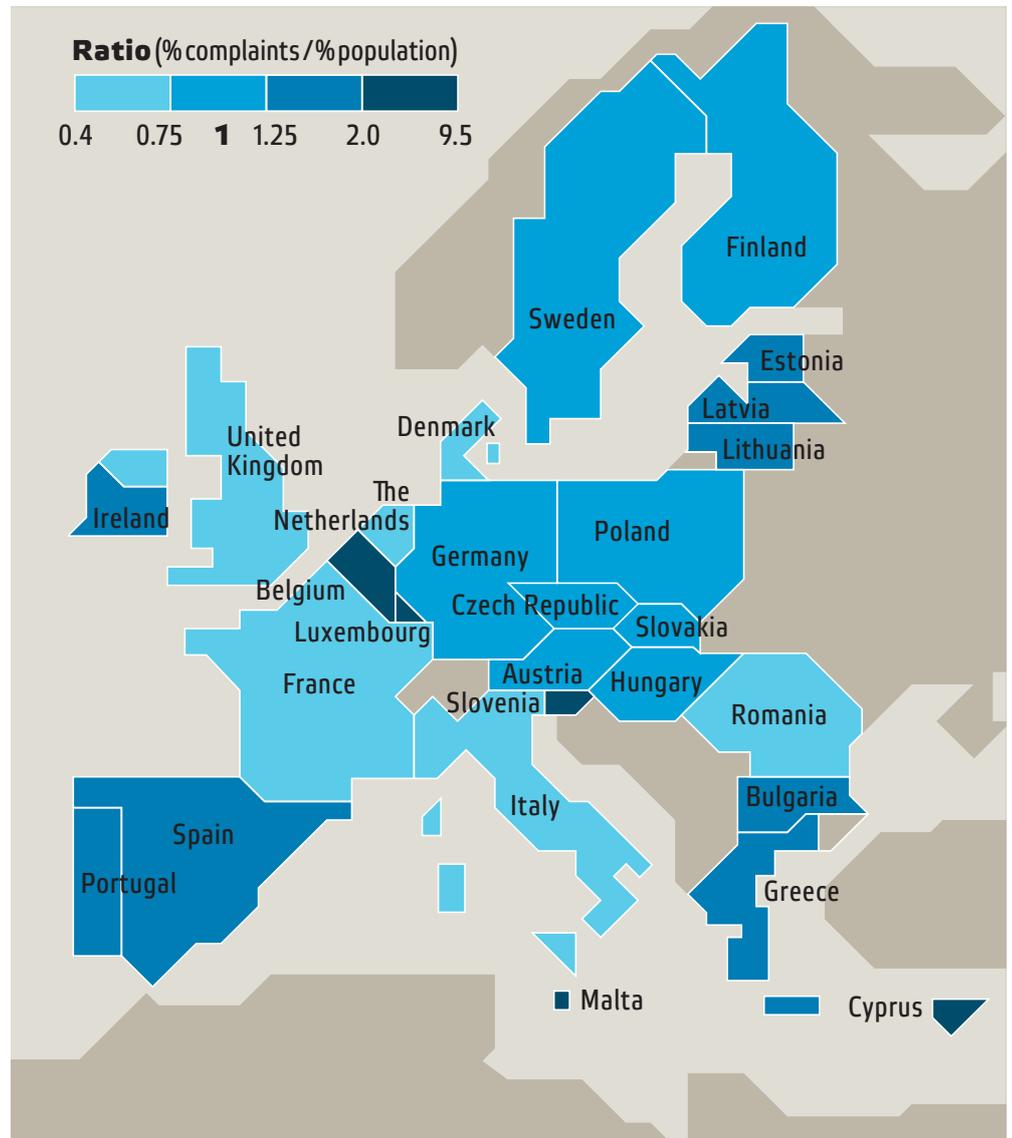


## Complaints from whom?

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	413
Spain	389
Poland	235
France	235
Belgium	207
Italy	183
United Kingdom	176
Portugal	102
Greece	91
Romania	81
Bulgaria	77
Austria	62
Czech Republic	59
The Netherlands	59
Hungary	55
Finland	42
Sweden	42
Ireland	40
Lithuania	30
Luxembourg	29
Slovenia	29
Slovakia	27
Malta	25
Cyprus	24
Denmark	23
Latvia	20
Estonia	17
Others	157
Not known	169

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 Cedex  
 FRANCE  
 Tel. +33 3 88 17 23 13  
 Fax +33 3 88 17 90 62

→→→ <http://www.ombudsman.europa.eu>

© European Union, 2010

Reproduction for educational and non-commercial purposes is authorised, provided the source is acknowledged.

Pierre Roesch typo-graphisme, Strasbourg

Printed in Luxembourg

Printed on CyclusPrint, fine printing paper produced exclusively from recycled fibres.

QK-AD-10-001-EN-D · ISSN 1831-3582