



Annual Report • Annual Report

2013

European Ombudsman





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Introduction



Video introduction by Emily O'Reilly to the European Ombudsman's Annual Report 2013.
<http://europa.eu/!yV84qy>

I am delighted to present you with our Annual Report 2013.

The year was of course a transition year for the institution of the European Ombudsman with Professor P. Nikiforos Diamandouros stepping down, and my election by the European Parliament. I had the honour of taking the oath of office on September 30th.



Election of the European Ombudsman 2013
Elections took place on 2 and 3 July at the EP Plenary session in Strasbourg. Hearings by the Parliament's Petitions Committee took place on 18 June. There were 6 candidates, of which 3 were MEPs, 2 were national ombudsmen of Ireland and The Netherlands, and 1 candidate from the Council of Europe.



Oath of office by European Ombudsman Emily O'Reilly before the Court of Justice of the European Union, 30 September 2013.
<http://europa.eu/!xk84xq>

With this oath I assumed a responsibility which will require living up to and continuing the great legacies left by both my predecessors Jacob Söderman and Nikiforos Diamandouros.



Roberta Metsola, MEP
Great to see praise from across the political spectrum congratulating Mr Diamandouros, the European Ombudsman, for 10 years of hard work and progress.

Mr Söderman assumed the responsibility of building up the new institution and embedding it into the fabric of European political life and an emerging European citizenship after the Maastricht Treaty twenty years ago.

Professor Diamandouros took office just as the EU greatly expanded with the accession of ten new Member States, with all the opportunities and challenges that that period required. I must pay a great tribute to Mr Diamandouros for his help and support throughout the transition period.



Now as the third European Ombudsman, I have assumed responsibility at a time of great turbulence in Europe.

A critical role of the European Ombudsman is to highlight citizens' concerns and help bridge the wide gap between them and the EU institutions.

I, as European Ombudsman, will assume my responsibility to help the citizens and residents of Europe to claim the European institutions as their institutions.

In pursuit of this goal, I will closely collaborate with the European Parliament, with the national and regional ombudsmen, and with the entire ombudsman family.

In so doing, I will be guided by the case-law of the Court of Justice of the European Union, which creates the framework within which the Ombudsman promotes the rule of law in the European Union. I will also be guided by principles of good administration and public service.

My ultimate goal is to help strengthen the structures and institutions of accountability and transparency at the European level, to improve the quality of democracy in the European Union.

Please enjoy my first Annual Report. It has been re-vamped to reflect my wish to make this institution as accessible and user-friendly as possible.

For a more detailed examination of the key cases from 2013, please refer to *Good administration in practice: The European Ombudsman's decisions in 2013*.

Strasbourg, 31 March 2014

Emily O'Reilly



1 • 2013 at a glance

The year 2013 was a significant one for the ombudsman institution: a new Ombudsman was elected and took office, setting the institution on a new course towards greater impact, visibility, and relevance. Here are some of the key highlights from the year:

<p>January Commission dialogue with non-religious groups</p> 	<p>February Revolving door inquiry opened</p> 	<p>March Commission discloses documents on UK opt-out</p> 	<p>April "It's our Europe" event</p> 
<p>May Ombudsman presents Annual Report</p> 	<p>June Ombudsman solves 93 000 Euro dispute</p> 	<p>July New Ombudsman elected</p> 	<p>August Inquiry into EU agencies opened</p> 
<p>September European Network of Ombudsmen Seminar</p> 	<p>October New Ombudsman takes office</p> 	<p>November Frontex fundamental rights report</p> 	<p>December Commission opens investigation into Spanish football</p> 



2 • How many complaints?

23 245

Citizens helped by the European Ombudsman in 2013



19 418

Advice given through the Interactive Guide on the Ombudsman's website

2 420

Complaints registered in 2013

1 407

Requests for information replied to by the Ombudsman's services

9

Own-initiative inquiries opened

20

Own-initiative inquiries closed

341

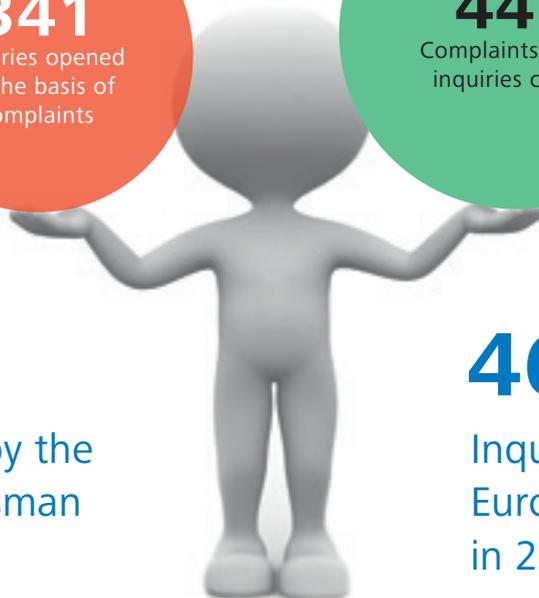
Inquiries opened on the basis of complaints

441

Complaints-based inquiries closed

350

Inquiries opened by the European Ombudsman in 2013



461

Inquiries closed by the European Ombudsman in 2013

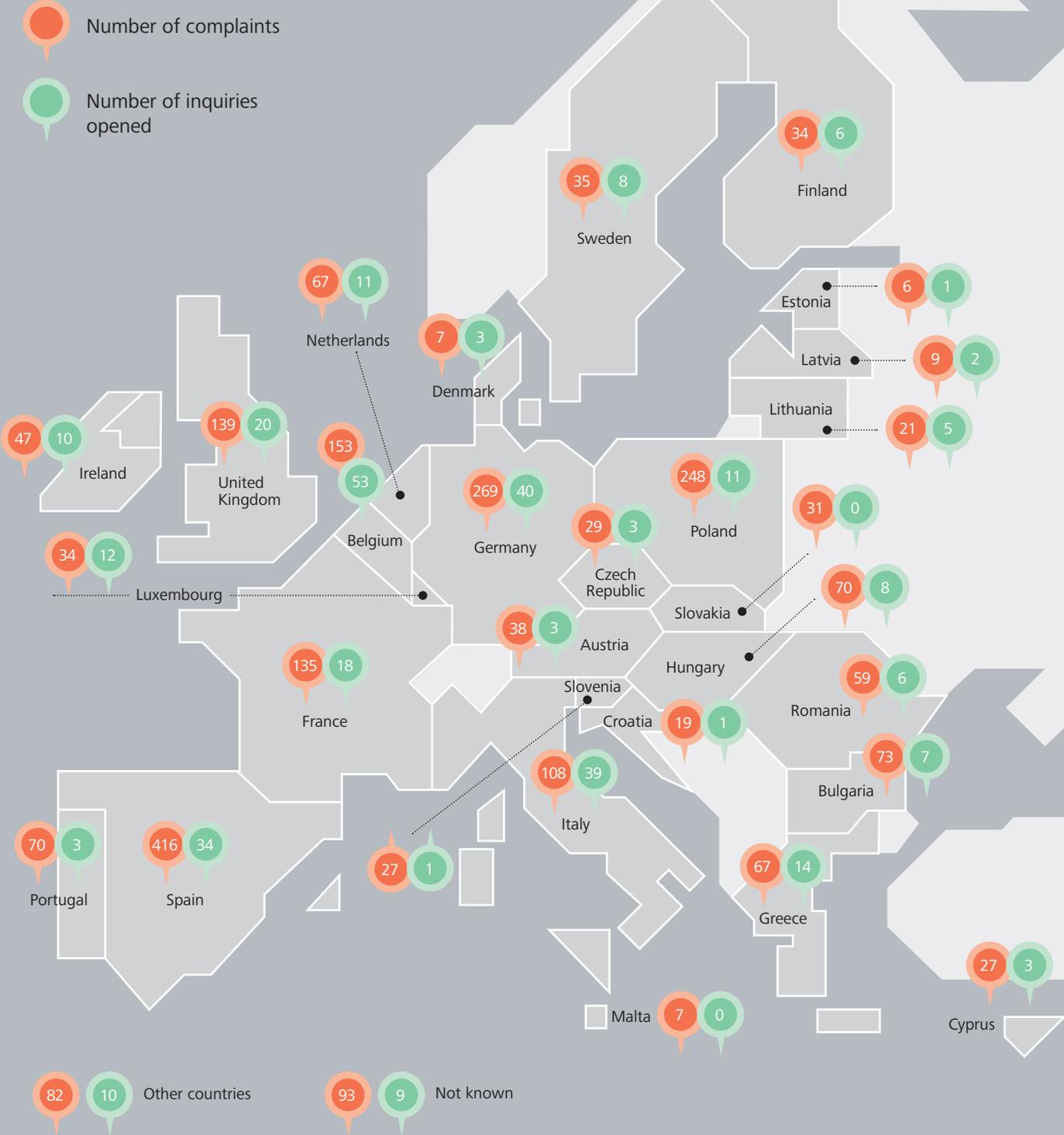


441

Source of complaints in inquiries closed by the European Ombudsman in 2013



National origin of complaints registered and inquiries opened by the European Ombudsman in 2013

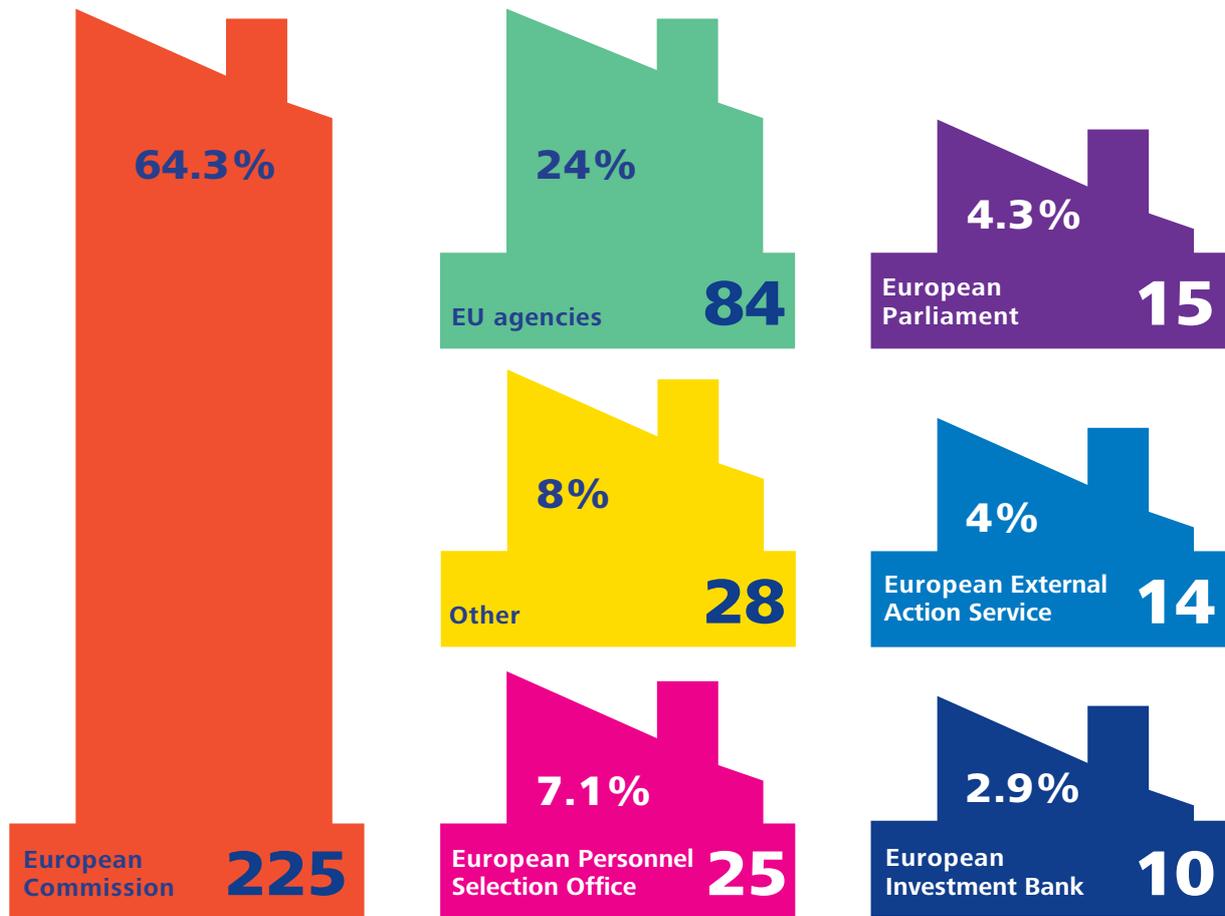




3 • Against whom?

350

Inquiries conducted by the European Ombudsman in 2013 concerned the following institutions



Note i: The Ombudsman opened two inquiries in 2013 on her own initiative in connection with more than one institution. The above percentages therefore total more than 100%.

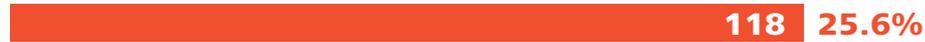
Note ii: The Ombudsman opened eight inquiries in 2013 after a complaint concerning more than one institution. The above percentages therefore total more than 100%.



4 • About what?

Subject matter of inquiries closed by the European Ombudsman in 2013

Requests for information and access to documents (transparency)



The Commission as guardian of the Treaties¹



Institutional and policy matters²



Administration and Staff Regulations



Competition and selection procedures (including trainees)



Award of tenders or grants



Execution of contracts



Note: In some cases, the Ombudsman closed inquiries with two or more subject matters. The above percentages therefore total more than 100%.

1. Article 17 of the Treaty on European Union (TEU) requires that the Commission “ensures the application of the Treaties, and of measures adopted by the institutions pursuant to them”.

2. This heading covers a range of complaints made against the institutions with regard to their policy-making activities or their general operation.



5 • Results achieved



2 354

Action taken by the European Ombudsman on complaints received in 2013

Results of inquiries closed by the European Ombudsman in 2013

Settled by the institution or friendly solution agreed



No further inquiries justified



No maladministration found



Maladministration found



Other



Note: In some cases, the Ombudsman closed inquiries on two or more grounds. The above percentages therefore total more than 100%.

Inquiries where maladministration was found by the European Ombudsman in 2013

Critical remarks addressed to the institution

40 **80%**

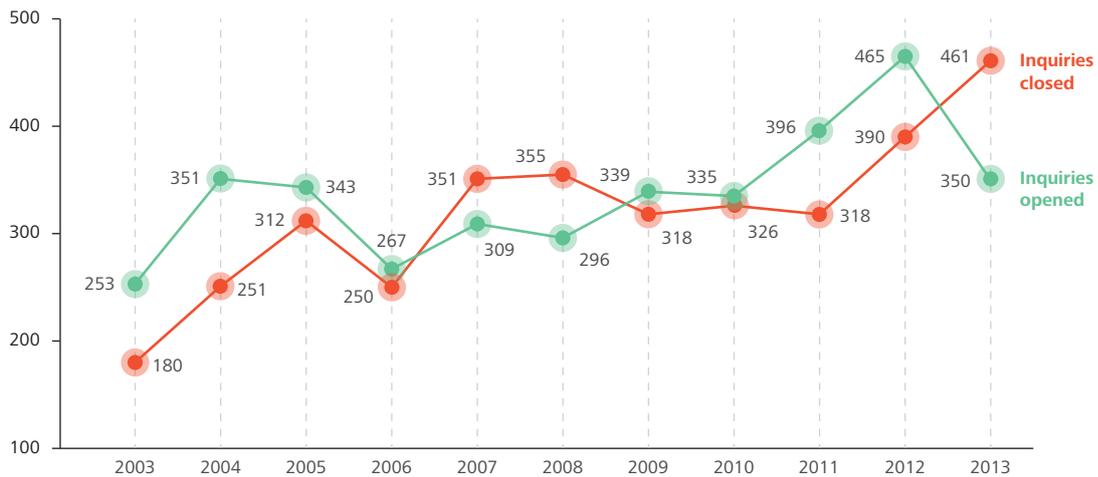
Draft recommendations fully or partly accepted by the institution

9 **18%**

Special report

1 **2%**

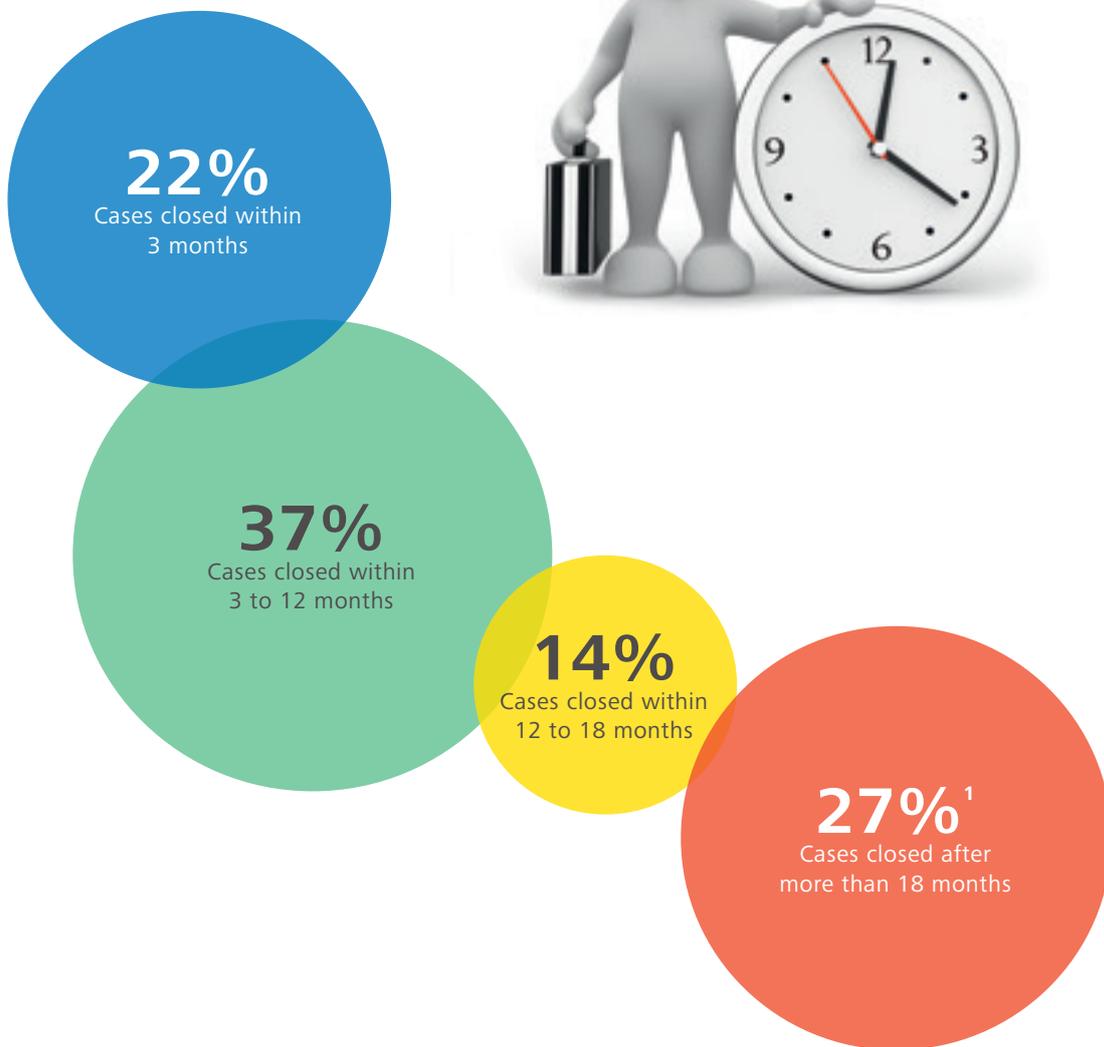
Evolution in the number of inquiries by the European Ombudsman





13 months average

Length of inquiry of cases closed by the European Ombudsman in 2013



1. Some complex cases require several rounds of consultations with the complainant and the institution concerned. In this way, the office of the European Ombudsman not only fully establishes the facts, but also tries to reach a solution that is acceptable to both parties.



6 • Key topics

For a more detailed examination of the key cases from 2013, please refer to *Good administration in practice: The European Ombudsman's decisions in 2013*.

6.1 Transparency



Complaints relating to lack of transparency within the EU institutions have consistently topped the list of complaints to the European Ombudsman. For several years now, 20% to 30% of the complaints that the Ombudsman's office investigates have concerned transparency. The most common transparency issues raised are the institutions' refusal to grant access to documents and/or information, meetings taking place behind closed doors, and the opaque way in which members of EU expert groups are appointed. Public access to documents is one of the rights guaranteed by the [Charter of Fundamental Rights of the EU](#).

One investigation concluded in 2013 related to documents concerning the [UK opt-out from the Charter of Fundamental Rights of the EU](#). The opt-out was a major issue in the intergovernmental negotiations leading to the adoption of the Treaty of Lisbon. The

[European Commission's](#) services had drafted the documents in that context. Wanting to know why UK citizens do not enjoy the same rights as other EU citizens, the [European Citizen Action Service \(ECAS\)](#), a Brussels-based NGO, asked to see the documents. The Commission refused to disclose them, saying that it needed to protect both the legal advice it receives and its internal decision-making process.

The NGO then complained to the Ombudsman who, upon inspecting the documents, concluded that the Commission's arguments for the refusal were not convincing. After the Ombudsman had strongly criticised the Commission for "a most serious instance of maladministration", the Commission released all the requested documents.

#4

Citizens' House
[@CitizensHouse](#)
[+ Solve](#)

[@EUombudsman](#)
[EUobserver.com @ecas_europe](#) wins access to EU documents on UK opt-outs
[euobserver.com/institutional/...](#)

Re-tweeted by @EUobserver

EUobserver
 NGO wins access to EU documents on UK opt-outs
 A five-year struggle to access documents came to an end on Monday when the EU ombudsman welcomed the European Commission's move to release papers concerning negotiations on the EU's rights' charter.

[View our full report](#)

RETWEETS 2
LIKES 3

01:35 - 5 mars 2013 [Signaler la photo](#)

Citizens' House
 EUobserver.com reports: ECAS wins access to EU documents on UK opt-outs.

NGO wins access to EU documents on UK opt-outs
 A five-year struggle to access documents came to an end on Monday when the EU ombudsman welcomed the European Commission's move to release papers concerning negotiations on the EU's rights charter.

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Another case concerned the [Transparency Register](#) that the Commission and [Parliament](#) jointly operate. This register of lobbyists was introduced with a view to making the EU’s decision-making process more transparent, and to enable the public to know who is trying to influence EU decision-makers. It provides information about those lobbying the EU institutions, which interests they pursue, and the amounts they invest in these activities. Companies, professional consultancies, self-employed consultants, trade associations, academic institutions, NGOs, organisations representing religious communities, organisations representing local, regional, and municipal authorities, and others lobbying the EU institutions, may voluntarily register. So far, around 6 500 lobbyists have done so.

The NGO [Friends of the Earth Europe](#) complained to the Commission that two multinational companies had seriously underreported their spending on lobbying activities in the Register. Not satisfied with the Commission’s response, Friends of the Earth Europe complained to the Ombudsman that the Commission had not dealt properly with its complaint, and that the institution had refused to grant it access to all the relevant documents.

The Ombudsman [criticised the Commission](#) for failing to adequately explain to the NGO the reasons for rejecting its arguments. In addition, the Ombudsman called on the Commission, when revising the Register, to take full account of the [principles for transparency and integrity in lobbying of the Organisation for Economic Co-operation and Development \(OECD\)](#). The Ombudsman advised the institution to systematically inform lobbyists and other interest representatives that it would release their names upon public requests for information about their lobbying activities.

In order to encourage greater transparency in the EU institutions, the Ombudsman, now widely regarded as the “guardian of EU transparency”, traditionally hosts a seminar in Brussels on the International Right to Know Day, on 28 September. The Day was established in 2003 by access to information advocates from around the world. In 2013, the event, entitled “[International Right to Know Day – EU transparency: Where are we now?](#)”, sought to examine how much progress had been made with regard to transparency in the EU institutions over the last decade. Over 175 representatives of associations, NGOs, companies, civil society organisations, journalists, regional and national representations, and other EU institutions attended the event, which was webstreamed live.

The image shows a screenshot of a tweet from Andrew Duff, MEP (@AndrewDuffEU). The tweet text reads: "New Ombudsman O'Reilly says: 'If it's public money, it has to be visible' euobserver.com/institutional/... Good thing to say @EUOmbudsman". Below the tweet is a link to an article on EUobserver with the headline "'If it's public money, it has to be visible'" and a sub-headline "The EU capital is awash with secretive lobbying and 'revolving door' cases. O'Reilly, the newly-elected ombudsman, is promising to shake up the cosy consensus." The tweet is dated 07:50 - 27 oct. 2015.

Andrew Duff, MEP
 New Ombudsman O'Reilly says: "If it's public money, it has to be visible" in euobserver.com. Good thing to say, European Ombudsman.

"If it's public money, it has to be visible"
 The EU capital is awash with secretive lobbying and 'revolving door' cases. O'Reilly, the newly-elected ombudsman, is promising to shake up the cosy consensus.



The European Ombudsman’s International Right to Know Day event 2013. <http://europa.eu/!bR74fV>

🐦
#6

Pascoe Sabido
@pascoesabido

Share

@EUombudsman has pushed Commission to improve Conflicts of Interest policy to include 'perceived' Col. It's about trust in EU #11rtkdEO

Retweets
Replies

4
1

03.11 - 27 sept. 2013

Pascoe Sabido @pascoesabido · 27 sept
@OBYHITS agree! It's also about public pressure on @EUombudsman to give it mandate to really pursue it #11rtkdEO

Pascoe Sabido

The European Ombudsman has pushed the Commission to improve conflicts of interest policy to include “perceived” conflicts of interest. It’s about trust in the EU.

6.2 Ethical issues



In 2013, the Ombudsman received a substantial number of complaints relating to ethical issues, such as conflict of interest and the practice of “revolving doors” within EU institutions. The term “revolving doors” is used to describe a move by public sector staff to closely-linked jobs in the private sector, or vice versa.

Considering exemplary ethical behaviour in the EU administration to be of prime importance, the Ombudsman published **public service principles** and ethical guidelines,



which were first launched within the Ombudsman's office, and then distributed to the staff of other EU institutions. In addition, the Ombudsman has repeatedly stressed that the EU administration should adhere to "gold standards" when it comes to ethical behaviour.



The European Ombudsman's Ad Hoc Ethical Committee case 2013. <http://europa.eu/!NK94MF>

The most notable revolving door case from 2013 was that of the **re-appointment of a retired high-ranking Commission official to chair the Commission's Ad Hoc Ethical Committee**. Comprising three people, the Committee advises the **Commission** on ethical issues. If a former Commissioner wishes to accept a job in the private sector that might compromise the Commission's integrity, the Committee can look into the matter. The former official was at the time working for a major law firm, advising several clients, including a tobacco company.

Three NGOs – **LobbyControl**, **Corporate Europe Observatory**, and **Corporate Accountability International** – complained to the Ombudsman about the re-appointment, arguing that there was a conflict of interest because the former official was representing private interests in his contacts with the

Commission, and did not therefore meet the necessary requirements of independence.

At first, the Commission rejected the complainants' arguments, stressing that the complainants did not give any proof of a concrete conflict of interest. In the Ombudsman's view, the mere possibility that the head of the Committee might have been influenced by private interests was unacceptable. The Commission finally followed the Ombudsman's advice and **appointed a new chair of the Committee**.

During the year, the Ombudsman investigated another important **conflict of interest complaint** relating to the **European Central Bank (ECB)**. Mario Draghi, the President of the ECB, is also a Member of the **Group of Thirty**. The Group is composed of high-level representatives of central banks, international public financial bodies, private banks, and investment companies, as well as politicians and academics. It discusses important international economic, financial, and policy developments and publishes reports.

The NGO **Corporate Europe Observatory (CEO)** complained to the Ombudsman that the President's membership of the Group undermined the Bank's independence, reputation, and integrity. CEO argued that the Group is a "lobbying vehicle" for promoting private financial interests, and called on the ECB to require Mr Draghi to leave the Group.

After analysing the Group's membership, funding, and aims, the Ombudsman found Mr Draghi's membership to in fact be compatible with his role as President of the ECB. The analysis also concluded that the Group could not be regarded as a lobby or interest group, but rather as a forum for exchanging views. Nonetheless, the Ombudsman noted that, given the ECB's initially inadequate responses to the complainant, the complainant was indeed correct to raise concerns about the matter.

The Ombudsman closed the case by advising the ECB to improve its level of transparency by mentioning the President's membership of the Group on its website, and to take appropriate steps to raise further the quality of its communication with the public.

In 2013, the Ombudsman also opened an [inquiry](#) into how the Commission implements its rules on conflicts of interest in revolving door cases. This followed a complaint from [Corporate Europe Observatory](#) (CEO), [Greenpeace](#), [LobbyControl](#), and [Spinwatch](#) that the Commission has been failing to deal properly with such cases, which may be systemic in nature.

Furthermore, a German NGO complained to the Ombudsman that the [European Food Safety Authority](#) (EFSA) did not adequately address a potential conflict of interest when the head of its genetically modified organisms (GMO) unit moved to a biotechnology company. The Agency is in charge of risk assessment in the EU with respect to food safety. Its role is to provide independent scientific advice and information on existing and emerging risks, in collaboration with national authorities and other stakeholders.

Indeed, the Ombudsman's investigation found that EFSA had not thoroughly assessed the alleged potential conflict of interest, and invited it to strengthen its rules and procedures to avoid such conflict in the future. The Agency accepted the Ombudsman's recommendation, but [only in part](#): it strengthened its rules and procedures, but took an unduly restrictive approach to what constitutes a potential conflict of interest.

In the framework of visits to EU agencies, the Ombudsman welcomed the measures that the [European Chemicals Agency](#) (ECHA) had taken to [improve the quality of its administration](#). These visits are designed to ensure that the agencies respect principles of good administration, such as transparency

and high ethical standards. ECHA adopted a new conflict of interest policy and introduced measures to ensure greater transparency, to tackle potential conflicts of interest, ease access to documents, and provide information to tenderers and contractors.

In addition, the Ombudsman dealt with a number of complaints that raised concerns about the composition of stakeholder groups, expert groups, and other important EU working groups, in terms of transparency and balance. Of the ensuing cases, the most significant was against the [European Banking Authority](#) (EBA). The Authority's role is to ensure effective and consistent regulation and supervision across the European banking sector. Before adopting standards, guidelines, and recommendations, the EBA is required to consult its Banking Stakeholder Group (BSG). The Group consists of 30 representatives of the banking industry and its employees, Small and Medium-sized Enterprises (SMEs), consumers, and users of banking services, among others.

The Ombudsman's inquiries indeed identified an [imbalance in the EBA's selection of industry, consumer, user, and employee representatives](#). In particular, the Ombudsman criticised the EBA for not ensuring a geographical balance within each category, and advised it, in future, to avoid the risk that one Member State might be seen to be over-represented. The Authority expressed willingness to review its approach in light of the Ombudsman's criticism.



6.3 Participation of citizens in EU decision-making



Since the [Treaty of Lisbon](#) entered into force and the [Charter of Fundamental Rights of the EU](#) became legally binding, the Ombudsman has received an increasing number of complaints in the area of citizens' rights, especially the right to participate in the EU decision-making process.

Among the examples of citizen participation are the [Commission's public consultations](#), and the [European Citizens' Initiative](#) (ECI), whereby one million citizens can request that the [Commission](#) initiate EU legislation. Additionally, the Treaty of Lisbon requires that the institutions maintain an "open and regular dialogue with civil society".

In this context, the Commission regularly conducts dialogue seminars. However, when the [European Humanist Federation](#) (EHF) requested such a seminar with the Commission, the Commission refused. The EHF, which represents 50 humanist organisations from more than 20 countries, wanted to discuss the exemption for churches that European employment rules provide

for. The Commission explained its refusal by invoking the need to respect the status of churches and religious organisations. The Federation complained to the Ombudsman, who [asked the Commission to establish clear rules](#) about its dialogue with religious and non-religious organisations.

Multilingualism, which the Treaty of Lisbon guarantees, is another important issue when it comes to citizen participation. An Irish citizen complained to the Ombudsman that the [European Parliament](#) had failed since 2007 – when Irish was granted the status of official EU language – to make its website available in Irish. Following the Ombudsman's intervention, the Parliament agreed not only to make sections of its website where the public is invited to interact with Parliament available in Irish, but to make the [website entirely available in Irish](#).

Every year, the Ombudsman conducts a major citizens' event, in order to engage top EU politicians in a dialogue with citizens. This interactive event targets citizens, associations, NGOs, civil society organisations, companies, journalists, regional and national representations, representatives of other EU institutions, and other interested persons. The 2013 event took place in the framework of the [European Year of Citizens 2013](#) and was entitled "[It's our Europe: Let's get active!](#)". It attracted more than 400 participants.

The event's central themes were the search for solutions to the economic crisis, and ways of building a clean and healthy Europe. Several successful grassroots initiatives were showcased. The Ombudsman organised the event to help focus on European citizens and how they can contribute concretely to shaping the EU, either by using the [European Citizens' Initiative](#) (ECI), by complaining to the European Ombudsman, or by mobilising large numbers of citizens to carry out grassroots initiatives.



The European Ombudsman's "It's our Europe: Let's get active!" event 2013. <http://europa.eu/!MN48Jk>

🐦
#7

European Ombudsman
Solve

Meet @right2water @G1000org @fraternite_2020 @letsdoitworld and other citizen driven projects at #EYC2013eo on 23/4 bit.ly/1lhV64v

5 retweets 1 reply

08:10 · 2 Jun 2013

Brussels_Business (@BB_Biz) · 2 Jun 2013
 @EUombudsman @right2water @G1000org @fraternite_2020 @letsdoitworld
 Well done to all of them! Keep up the good work!

European Ombudsman
 Learn about Right2Water, G1000org, Fraternité 2020, Let's do it! World, and other citizen-driven projects at the European Ombudsman's event "European Year of Citizens 2013 – 'It's our Europe: Let's get active!'" on 23 April 2013.

#2

It's our Europe: Let's get active!

Citizens' event organised by the office of the European Ombudsman 23 April 2013, 09.30-12.30 at European Parliament, Brussels, József Antall Building, room 2Q2. Parallel satellite events in a number of EP information offices across Europe.

It's our Europe: Let's get active!
 Citizens' event organised by the office of the European Ombudsman 23 April 2013, 09.30-12.30 European Parliament, Brussels, József Antall Building, room 2Q2. Parallel satellite events in a number of EP information offices across Europe.

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The Ombudsman was also invited to speak at the [closing conference of the European Year of Citizens 2013](#) in Vilnius, Lithuania, the final major event of the Lithuanian Presidency of the EU. The Ombudsman’s speech focused on EU citizenship and the construction of the Union. She underlined that the current crisis is not only economic in nature, but also an identity and legitimacy crisis. The Ombudsman urged the EU institutions to engage citizens more deeply in the Union’s integration process, and to resist the temptation towards arrogance and self-serving behaviour. She also encouraged citizens to exercise their citizenship rights, for example by voting in European Parliament elections, to make their voices heard, and to exert real influence at the EU level.

6.4 EU-funded projects and programmes



EYCA 2013
 And here is @EUombudsman: speech "We need a 'human Europe'" at the #eyc2013 closing conference bit.ly/18pqTEN cc @AndrisGobins

6 RETWEETS 3 REPLY

01:33 · 13 Jan. 2013

EUwatch Info Hub @EUwatchers · 13 Jan.
 #EYCA2013 Thanks for your tweet, it's now featured in our #EUwatch Citizens Information Hub europeancommission.eu/ewwatch/

EYCA 2013
 And here is the European Ombudsman’s speech: "We need a 'human Europe'" at the EYC 2013 closing conference.

Apart from [speaking on EU citizenship](#), the Ombudsman also met with NGOs, business representatives, and journalists during her stay in Lithuania.

Every year, the Ombudsman receives a high number of complaints from companies, NGOs, universities, municipalities, and other legal entities involved in EU-funded projects and programmes. These complaints mainly concern late payment, contractual disputes, problems with calls for tender, and lack of transparency, mostly due to the EU institutions’ refusal to grant access to documents or information.

Small and Medium-sized Enterprises (SMEs) and other small entities can get into serious difficulties when the [Commission](#) does not pay them on time. The Ombudsman regularly consults businesses about this issue and about other bureaucratic difficulties they face. Over the years, the Ombudsman has conducted several own-initiative investigations into late payment, and asked the Commission to report on progress and to submit payment statistics.

The Ombudsman opened one such investigation in 2013. It sought to examine the Commission’s performance in terms of timely payments to contractors and beneficiaries of grants and subsidies.

The Ombudsman asked the Commission for updates about the situation and the measures it had been taking to resolve the problem. The Commission's successive reports point to a decrease in the number and monetary value of delayed payments. However, **problems remain**. For instance, the overall amount of interest accruing from delays in payment has increased. The Ombudsman will continue to monitor the issue.



EUR 93 000 payment dispute resolved by the European Ombudsman in 2013. <http://europa.eu/!UQ87FN>

In a key case from 2013, the Ombudsman helped solve a **EUR 93 000 payment dispute** between a French NGO and the Commission in connection with an EU-funded research and technology project in Russia. The NGO **Earth Data Network for Education and Scientific Exchange** (EDNES) was the project co-ordinator, and successfully carried out the project. However, the Commission sought to recover EUR 93 000 from the NGO because it had subcontracted work to a Russian company, which was not allowed under the contract.

EDNES complained to the Ombudsman, whose investigation concluded that the Commission itself had acknowledged that the NGO had acted in good faith, completed the project successfully, and informed the Commission at all stages about the organisational set-up

of the project, to which it had never objected. The Ombudsman considered the claim for reimbursement to be disproportionate and unfair, and a threat to the very existence of the NGO, run by volunteers who did not receive any remuneration. In the end, the Ombudsman persuaded the Commission to waive the recovery.

6.5 Fundamental rights



Apart from the Charter's provision for increased citizens' rights, to which the Ombudsman refers during inquiries, the Ombudsman also looks into other aspects of the EU administration's fundamental rights obligations.

The most remarkable case in the field of fundamental rights in 2013 arose from the refusal of the **EU Agency for External Border Security** (Frontex) to set up a complaints mechanism. Frontex co-ordinates co-operation between Member States in the field of EU external border security and illegal immigration. The Charter is legally binding on Frontex as is an EU regulation, which lays down additional fundamental rights obligations for the Agency.



In 2013, the Ombudsman asked Frontex a number of questions about how it fulfils these obligations, and conducted a public consultation, which gathered contributions from citizens, human rights NGOs, and other organisations. The Ombudsman found that, in general, Frontex was making reasonable progress in addressing fundamental rights issues. However, she advised Frontex to establish a complaints mechanism in order to be able to deal directly with complaints from migrants and other affected persons. The Agency rejected the recommendation, arguing that individual incidents are exclusively the responsibility of the Member States concerned.

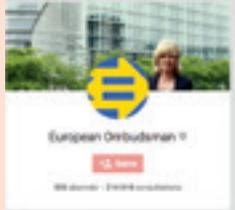
The Ombudsman did not agree with Frontex's argument and submitted a [special report](#) to the European Parliament, asking for its support in persuading Frontex to review its approach. This took place in the aftermath of the tragedy that occurred off the coast of the Italian island of Lampedusa towards the end of 2013, in which several hundred migrants perished.



Frontex special report by the European Ombudsman in 2013. <http://europa.eu/!yU44Cu>

In another case linked to fundamental rights, the Ombudsman concluded that [the Commission did not exceed its powers by hosting a photo exhibition on same-sex couples](#). The event, entitled “Different

g+
#1



Are the #humanrights of asylum seekers the responsibility of the EU or its member states?

“Against the backdrop of the #Lampedusa tragedy and other recent humanitarian catastrophes at EU borders, it is vital that Frontex deals directly with complaints from immigrants and other affected persons. I do not accept Frontex’s view that human rights infringements are exclusively the responsibility of the Member States concerned.”

You can read the press release and other documents concerning the case here: <http://www.ombudsman.europa.eu/en/press/release.faces/en/52487/html.bookmark>

The photos are from the #Frontex website.

families – same love”, took place on Commission premises under the patronage of Commission Vice-President Viviane Reding, the Commissioner responsible for anti-discrimination matters. The exhibition included calls for the legal recognition of same-sex marriages, as well as for giving lesbian couples access to medically-assisted artificial insemination. The European chapter of the [International Lesbian, Gay, Bisexual, Trans and Intersex Association \(ILGA\)](#) organised the exhibition.

A citizen complained to the Ombudsman, alleging that the Commission had exceeded its powers by hosting the exhibition and

placing it under its patronage, because the EU does not have competence in the fields of marriage, family, and assisted reproduction. The complainant also felt that the Commission discriminated against those EU citizens who do not share the views that the exhibition promoted.

The Ombudsman agreed with the Commission's explanation that it has the legal obligation to fight discrimination, including on the grounds of sexual orientation, and was thus entitled to host an exhibition seeking to promote non-discrimination. The Ombudsman closed the case by advising the Commission to use a disclaimer in future exhibitions, to avoid giving the impression that it endorses all messages displayed in exhibitions it hosts.

In another significant case, a former employee of the [Fundamental Rights Agency](#) (FRA) alleged to the [European Anti-Fraud Office](#) (OLAF) that there were irregularities at the Agency. OLAF opened an investigation, but then closed the case and refused to give the whistleblower the reasons for closing the case.

OLAF argued that it was not obliged to give reasons and that it had to protect the confidentiality of its investigations and the independence of its institution. [The Ombudsman rejected OLAF's arguments](#), and stressed that all EU institutions are required to inform citizens about their decisions, and that this does not imply disclosure of confidential information.

6.6 Culture of service



One of the key priorities of the European Ombudsman is to promote a culture of service in the EU administration. In 2013, the Ombudsman published a new version of *The European Code of Good Administrative Behaviour*. The Ombudsman also met officials of various EU institutions and agencies at all levels to sensitise them to the need to adhere to a culture of service towards citizens.



The European Ombudsman's Spanish football case in 2013.
<http://europa.eu/IDP43TH>



Excessive delays are a constant problem within the EU administration. The Ombudsman handled a high-profile case about the [Commission's](#) inaction of more than four years in a state aid complaint concerning four Spanish football clubs. Investors in European football clubs had complained to the Commission that Spain was infringing EU state aid rules by granting unfair tax advantages to the four Spanish clubs. More than four years passed without any decision. The complainant alleged that the Commission's inaction in this case might be linked to the fact that the Commissioner responsible supports one of the football teams in question and was a Minister in the Spanish government that decided on the tax advantages at the time.

After the Ombudsman had asked the Commission to act on this complaint, the [Commission opened an investigation into the funding of the football clubs in question](#). The Ombudsman commended this step, stressing that it is important for the European public to see that the Commission deals rapidly with concerns about alleged breaches of state aid rules, thereby dispelling any suspicions of a conflict of interests.

In several cases, citizens complained to the Ombudsman when institutions made procedural errors, did not reply to correspondence, or misinformed citizens. Thanks to the Ombudsman's intervention, the institutions complained against settled many disputes and improved their procedures.

One such case concerned a woman who participated in a competition for freelance conference interpreters that the Commission organised. The Commission invited her to sit a test. However, on the day of the test, the institution told her that she could not sit the test because she did not fulfil one of the competition's eligibility criteria. The candidate complained to the Ombudsman that the Commission did not inform her of

her ineligibility in a timely manner. [The Commission accepted the Ombudsman's advice](#) and paid the complainant EUR 300 in compensation.

Another case concerned a traveller whose flight had been delayed for 23 hours and who had turned to the air carrier, the national enforcement authority, and the Commission for help. He then complained to the Ombudsman that the relevant [EU Complaint Form](#) was inaccurate and wanted the Commission to review the complaints procedure or the information in the form. [The Commission complied](#) and thanked the Ombudsman for drawing its attention to the matter.



7 • How we handle cases



How we work at the European Ombudsman.
<http://europa.eu/lvK94Nb>

Both the [Treaty on the Functioning of the European Union](#) (TFEU) and the [Charter of Fundamental Rights of the EU](#) provide for the right to complain to the European Ombudsman. The TFEU empowers the Ombudsman to receive complaints from any citizen of the Union, or any natural or legal person residing or having its registered office in a Member State of the Union.

The Ombudsman ensures that the free complaint service is as fair, transparent, and straightforward as possible. Complainants can submit their complaint to the Ombudsman by any means of written correspondence, including through a secure complaint form on the Ombudsman's website. Knowing the anxiety that many people initially feel about their complaint, the Ombudsman seeks to provide a rapid first response by informing complainants within four weeks about what she will do with their complaint.

The Ombudsman examines each complaint on its own merits. This includes complaints that she has to reject because they are outside her mandate. When this happens, the complainants receive an individualised response, which in most cases includes advice about other bodies that might be able to help the complainant. The Ombudsman may also decide to transfer complaints to other such bodies.

Complaints that are within the Ombudsman's mandate are in the first place handled by her specialised legal staff. Every complainant is assigned a specific case-handler as a contact person.

Whenever she concludes that a new complaint does not fulfil the admissibility criteria, or that the grounds for opening an inquiry into an otherwise admissible complaint are not sufficient, the Ombudsman explains her decision and provides advice whenever possible and appropriate.

When the Ombudsman takes the view that an inquiry should be opened, she carefully examines the complaint's grievances, to determine whether they could be resolved through a simplified procedure.

Simplified procedures are usually more rapid and less formal than full scale inquiries. They include telephone inquiries, and clarificatory inquiries that allow the complainant to comment on the Ombudsman's provisional view that there may be no valid reasons for opening a more extensive inquiry. She may also decide to open an inspection inquiry for a rapid inspection of files and a similar prompt conclusion on the merits of the case.

Full scale inquiries are for instance necessary when the complaint is not urgent, is complex, or clearly requires the input of various specialised services of the institution concerned.

Several options are available to the Ombudsman, if she finds in favour of the complainant. She may propose a friendly solution that will satisfy the complainant, or issue a draft recommendation in which she asks the institution to correct the maladministration.

If it is not possible to seek a solution, the Ombudsman may decide to issue critical remarks. However, if the institution concerned

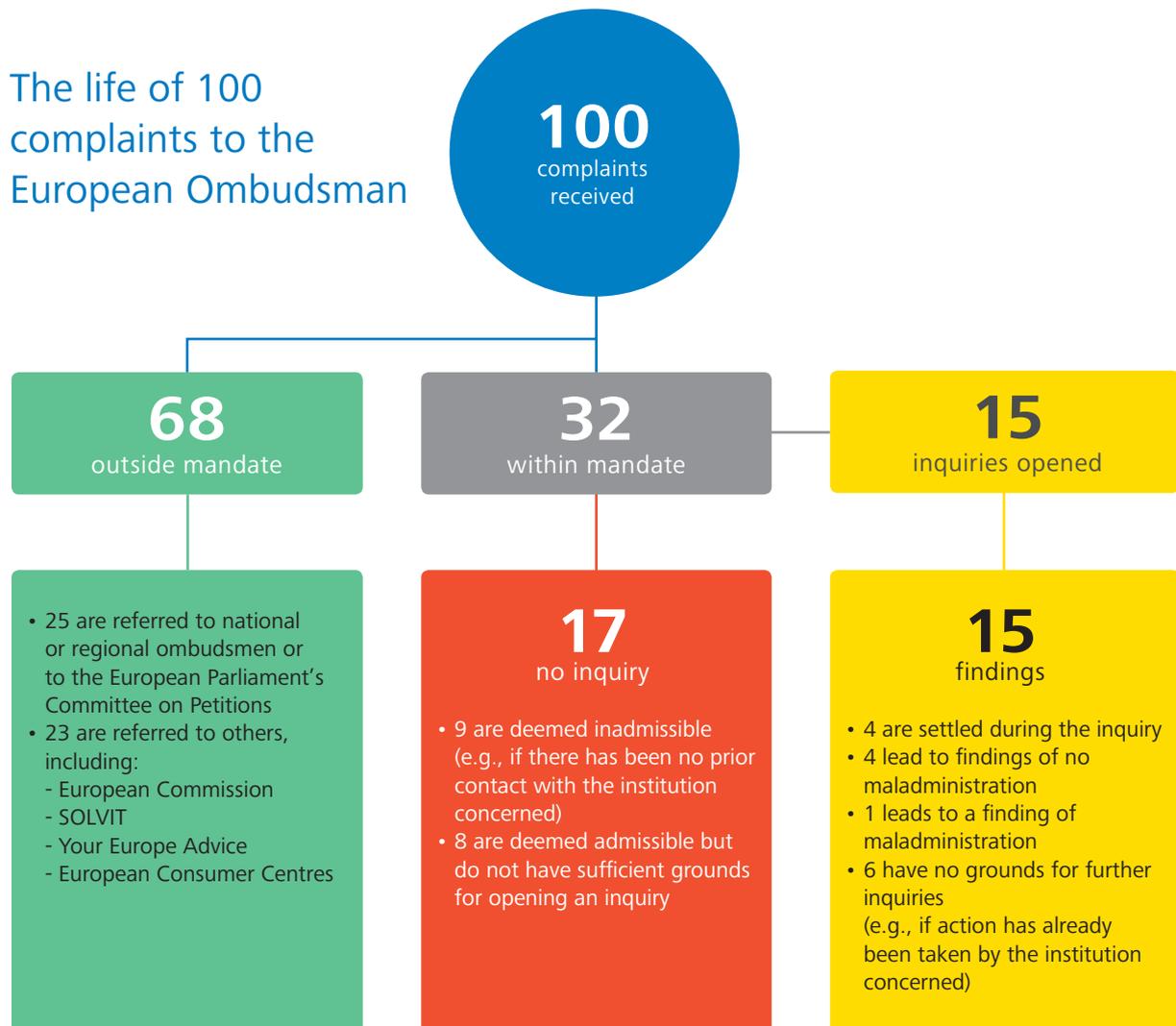


decides on its own initiative to resolve the complainant's grievances before the Ombudsman makes her findings, she will usually consider it unnecessary to criticise the institution through a formal finding of maladministration.

The Ombudsman also has the power to open inquiries on her own initiative. Using this power, the Ombudsman may investigate a possible case of maladministration that a person who is not entitled to make a complaint

brings to her attention. Furthermore, the Ombudsman may use this power to tackle what appear to be systemic problems in the EU institutions.

Every year, the European Ombudsman receives thousands of complaints from citizens, NGOs, businesses, and other organisations. The Ombudsman's staff ensures that every complaint is handled rapidly, diligently, and in a service-minded way. Here's what happens to a typical 100 complaints:





8 • Compliance with the Ombudsman's proposals

Every year, the Ombudsman publishes a comprehensive account of how EU institutions respond to the Ombudsman's proposals to improve EU administration. These proposals take the form of friendly solutions, draft recommendations, further remarks, critical remarks, and suggestions.

Compliance with the European Ombudsman's proposals in 2012



The report for 2012, entitled *Putting it Right? – How the EU institutions responded to the Ombudsman in 2012*, shows that overall, the institutions complied with the Ombudsman's proposals 80% of the time, with some scoring 100%. The [Commission](#), which accounts for the highest proportion of investigations that the Ombudsman carries out, had a compliance rate of 84%.

The screenshot shows a Google+ post from the European Ombudsman. It includes a red badge with the number '2' and a video player showing a presentation slide with the Ombudsman's logo. The text of the post reads: 'REVIEW: EU institutions provided 118 positive replies to the 148 proposals made by the Ombudsman in cases closed in 2012. Certain institutions scored 100%. In particular, the +European Central Bank, the European Medicines Agency, and the European Centre for Disease Prevention and Control all cooperated with the Ombudsman in a particularly constructive fashion in 2012. The European Anti-Fraud Office #OLAF also deserves special mention for the significant efforts it made to improve its procedures for the benefit of citizens. #EU#Administration'.

The [European Central Bank](#) (ECB), the [European Medicines Agency](#) (EMA), and the [European Centre for Disease Prevention and Control](#) (ECDC) co-operated with the Ombudsman in a particularly constructive fashion. And the [European Anti-Fraud Office](#) (OLAF) made significant efforts to improve its procedures for the benefit of citizens.

The report for 2013 will be available in autumn 2014.



9 • Relations with EU institutions

The European Ombudsman meets regularly with members and officials of the EU institutions to discuss ways of raising the quality of the administration, to emphasise the importance of good complaint-handling, and to ensure appropriate follow-up to the Ombudsman's recommendations and reports.

The meetings that took place since her election in 2013 were an opportunity for Ms O'Reilly to announce her vision and priorities for the future. One of the Ombudsman's priorities is to highlight citizens' concerns and to help bridge the gap that separates them from the institutions. She explained that she would do this by raising the visibility of her office's work and by overhauling the internal structures and complaint-handling processes, with a view to bringing about efficiency gains for the benefit of the public. The Ombudsman also challenged the institutions to adhere to gold standards when it comes to efficiency, transparency, ethical behaviour, and accountability, if they are to gain citizens' trust. She pledged to co-operate closely with the institutions.

9.1 European Parliament



Emily O'Reilly met Martin Schulz in October 2013.

Following her taking office, Emily O'Reilly met Martin Schulz, President of the [European Parliament](#) and Klaus Welle, Secretary-General. In addition, the Ombudsman presented a special report to the European Parliament's Committee on Petitions on the refusal of the [EU Agency for External Border Security](#) (Frontex) to set up a complaints mechanism. Having announced her "intention to co-operate with the European Parliament and to engage proactively with the Commission and the other EU institutions on behalf of citizens' rights and interests", the Ombudsman also met several Members of the European Parliament (MEPs) on a one-to-one basis, and members of Parliament's staff.

Martin Schulz, President of the European Parliament
Looking forward to meeting the European Ombudsman, Emily O'Reilly, in Strasbourg.

9.2 European Commission



Emily O'Reilly met José Manuel Barroso in October 2013.

Given that the [European Commission](#) accounts for the highest proportion of inquiries that the Ombudsman carries out each year, the Ombudsman's services make considerable efforts to liaise systematically with members and officials of the Commission.

Following her taking office, Emily O'Reilly met José Manuel Barroso, President of the European Commission, Maroš Šefčovič, Vice-President of the European Commission responsible for Inter-institutional Relations and Administration, Catherine Day, Secretary-General, Giovanni Kessler, Director-General of the [European Anti-Fraud Office](#), Rytis Martikonis, Director-General for Translation, and Jonathan Faull, Director-General for Internal Market and Services.



9.3 EU agencies

The past 15 years or so have seen the creation of a large number of [EU agencies](#) located across Europe. On the basis of the European Ombudsman's competence to conduct inquiries on her own initiative, the Ombudsman has established a programme of visits to the agencies. The programme enables the Ombudsman to reach out to the various agencies, in order to emphasise the importance of good administration, good complaint-handling, and a culture of service. It is also an opportunity to identify and spread best practice among the agencies.

While in Vilnius to speak at the closing event of the European Year of Citizens 2013, the Ombudsman took the opportunity to exchange views with Virginija Langbakk, Director of the [European Institute for Gender Equality \(EIGE\)](#), and other members of staff.



For further information on the programme of visits, see the article entitled *The European Ombudsman's visits to EU agencies – identifying and spreading best practices* in the [November 2013 edition](#) of the European Network of Ombudsmen Newsletter.

9.4 The United Nations Convention on the Rights of Persons with Disabilities

Beyond relations with the Union, the Ombudsman also co-operates with other international organisations such as the [United Nations](#), particularly in the area of human rights. For instance, as part of the EU framework under the [United Nations Convention on the Rights of Persons with Disabilities](#) (UNCRPD), the Ombudsman carries out the role of protecting, promoting, and monitoring the implementation of the Convention at the level of the EU institutions. A role that the Ombudsman plays alongside the [European Parliament](#), the [European Commission](#), the [Fundamental Rights Agency](#) (FRA), and the [European Disability Forum](#) (EDF). Together, they form the CRPD EU Framework. The Convention came into force for the EU in January 2011.

During 2013, the Ombudsman firstly consulted the other members of the EU Framework with a view to developing a multi-annual work programme for the Ombudsman's specific role. She also consulted the [European Network of Ombudsmen](#), the [European Group of National Human Rights Institutions](#) (NHRIs), and the [European Network of Equality Bodies](#) (Equinet). Among matters that fall within the Ombudsman's remit is the requirement on the EU institutions to ensure that: their services are accessible to persons with disabilities; persons with disabilities have access to information from, and means of communication with, the institutions; the work environment of the EU institutions is

open, inclusive, and accessible to persons with disabilities; and that persons with disabilities can effectively and fully participate in political and public life.

In 2013, the Ombudsman opened an investigation into the Parliament's revocation of a derogation excluding one of its staff members from the yearly staff mobility exercise due to her exceptional family circumstances. The Ombudsman opened another investigation into allegations that the [Europass CV](#) tool – operated by the [European Centre for the Development of Vocational Training](#) (Cedefop) – is inaccessible to persons with visual impairments. In these cases, both ongoing, the Ombudsman has drawn the attention of the institutions concerned to the CRPD.

Further to the Ombudsman's invitation for expressions of interest from officials of the EU Member States, published in 2013, a seconded national expert in disability matters joined the Ombudsman's team in early 2014. The expert will assist the Ombudsman in defining her disability work programme, and also in finding ways to better reach out to citizens and EU staff, to inform them of their rights and obligations under the CRPD.

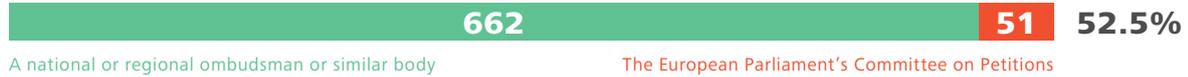
Since 2013, all the Ombudsman's publications are available in large print or audio versions upon request. During the year, the Ombudsman undertook work to develop a public register of documents, one of the key reasons being to ensure that persons with visual impairments can access the documents.



10 • Relations with networks

Complaints transferred to other institutions and bodies; Complainants advised to contact other institutions and bodies by the European Ombudsman in 2013

A member of the European Network of Ombudsmen of which:



The European Commission



Other institutions and bodies



Note: As in some cases the Ombudsman gave the complainant more than one type of advice, the above percentages total more than 100%.

The European Ombudsman co-operates closely with various networks to ensure that citizens' complaints about EU law are dealt with promptly and effectively.

Many complainants contact the Ombudsman when they have problems with a national, regional, or local administration. Such complaints fall outside the Ombudsman's mandate, and often concern alleged infringements of EU law by Member States. National or regional ombudsmen within the [European Network of Ombudsmen](#) are best placed to handle many such cases. The [European Parliament's Committee on Petitions](#) is also a full member of the Network. One of the purposes of the Network is to facilitate the rapid transfer of complaints to the competent member of the Network, be it a national or regional ombudsman, a similar body, or the European Parliament's Committee on Petitions.



Lodge a complaint



Request for information

The European Ombudsman's Interactive Guide helps 20 000 citizens a year find the right problem-solving body to contact.

The Network now comprises 94 offices in 35 European countries. It includes the national and regional ombudsmen and similar bodies of the Member States of the EU, the candidate countries for EU membership, and other countries in the European Economic Area and/or the Schengen area, as well as the European Ombudsman and the European Parliament's Committee on Petitions.

The Network serves as a useful mechanism for exchanging information on EU law and best practice through seminars, a biannual newsletter, and an electronic discussion and document-sharing Extranet.

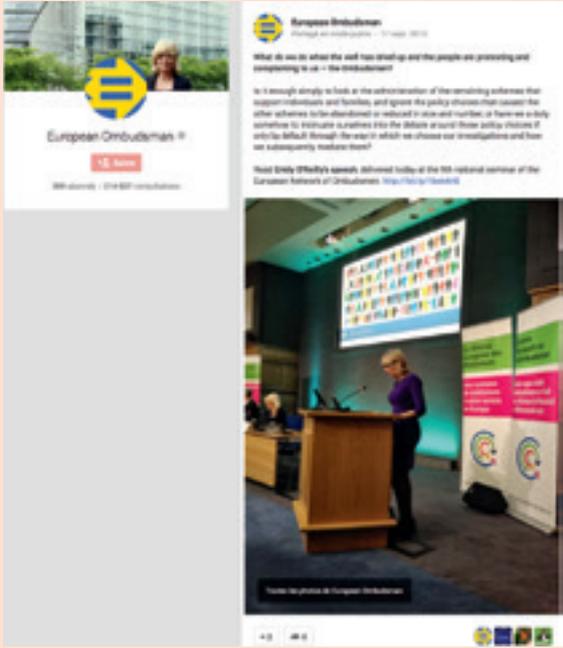
Among the issues discussed in 2013 were: the role of the European Ombudsman under the United Nations Convention on the Rights of Persons with Disabilities (UNCPRD), investigations that ombudsmen undertake on their own initiative, integration of social media in ombudsman offices' communication strategies, implementing the functions of national preventive mechanisms, and innovation within ombudsman offices.

In 2013, the European Ombudsman and the [Ombudsman of Ireland](#) jointly organised the [Ninth National Seminar of the European Network of Ombudsmen](#). The Seminar took



place in Dublin, from 15 to 17 September, and discussed a variety of topics, including innovation in ombudsman offices, reforming out of austerity, and making the citizen count.



What do we do when the well has dried up and the people are protesting and complaining to us – the Ombudsmen?

Is it enough simply to look at the administration of the remaining schemes that support individuals and families, and ignore the policy choices that caused them to be abandoned or reduced in size and number, or have we a duty somehow to insinuate ourselves into the debate around those policy choices if only by default through the way in which we choose our investigations and how we subsequently mediate them?

Read Emily O'Reilly's speech, delivered today at the 9th national seminar of the European Network of Ombudsmen: <http://bit.ly/1bok4n8>

In some cases, the Ombudsman may consider it appropriate to transfer a complaint to the [European Commission](#), to SOLVIT, or to [Your Europe Advice](#). SOLVIT is a network set up by the Commission to help people who face obstacles when trying to exercise their rights in the Union's internal market. Your Europe Advice is another EU-wide network that the Commission established to advise citizens on their life, work, and travel in the EU. Before transferring a complaint or advising the complainant, the Ombudsman's services make every effort to determine which other office is best suited to help.



Problems with the EU? Who can help you?

The Ombudsman's *Problems with the EU? Who can help you?* publication contains more information on alternative means of redress.



11 • Resources

11.1 The budget

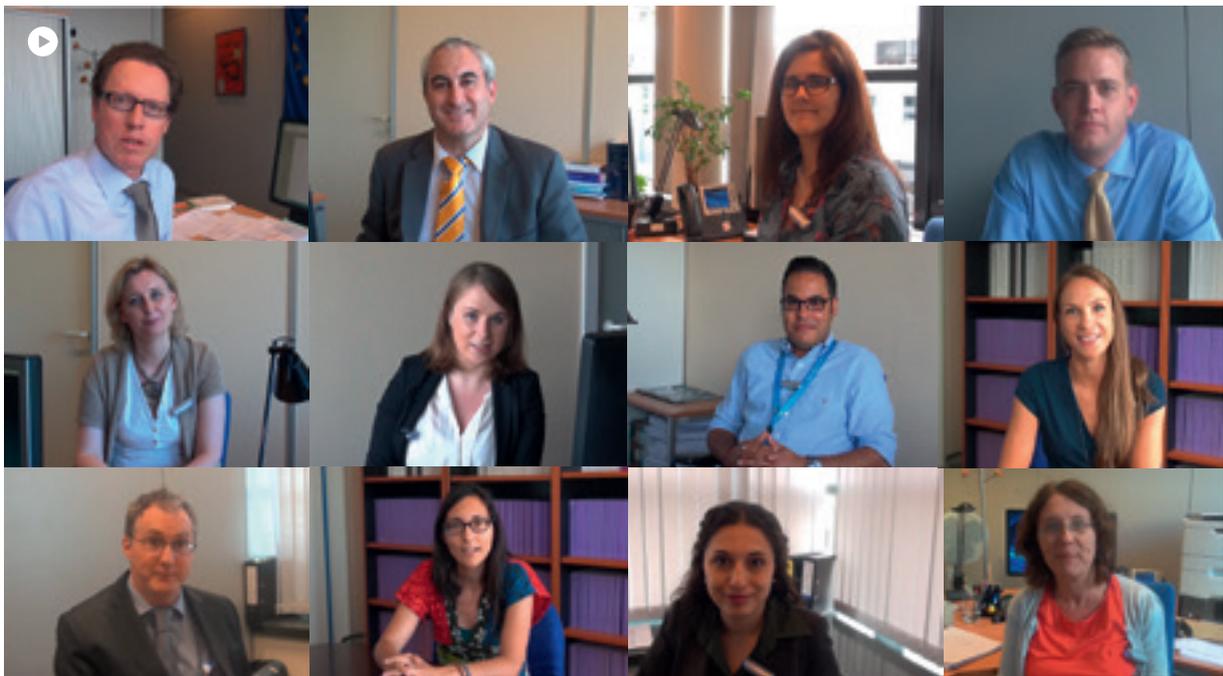
The Ombudsman's budget is an independent section of the EU budget. It is divided into three titles. Title 1 contains salaries, allowances, and other expenditure related to staff. Title 2 covers buildings, furniture, equipment, and miscellaneous operating expenditure. Title 3 contains the expenditure resulting from general functions that the institution carries out. [In 2013, budgeted appropriations amounted to EUR 9 731 371.](#)

With a view to ensuring effective management of resources, the Ombudsman's internal auditor, Robert Galvin, regularly checks the institution's internal control systems and the financial operations that the office carries out. As is the case with other EU institutions, the [European Court of Auditors](#) also audits the ombudsman institution.

11.2 Use of resources

Every year, the Ombudsman adopts an [Annual Management Plan \(AMP\)](#), which identifies concrete actions that the office needs to take in order to implement the institution's priorities. The AMP for 2013 was the third to be based on the Ombudsman's [Strategy for the mandate 2009-2014](#). The objectives for 2013 – as for the other years covered by the strategy – were to listen, deliver, persuade, communicate, and adapt. The AMP contains key performance indicators (KPIs) for measuring progress in the achievement of these objectives. The KPIs and the relevant targets are reviewed and, if necessary, revised on an annual basis.

The Ombudsman also adopts an [Annual Activity Report \(AAR\)](#). The AAR reports on the results of operations with regard to the objectives set out in the AMP, the risks associated with the operations, the use made of the resources at the Ombudsman's disposal, and the efficiency and effectiveness of the institution's internal control system.



Meet the European Ombudsman's team. <http://europa.eu/IQD63yq>



11.3 The team behind the Ombudsman

The institution has a highly qualified, multilingual staff. This ensures that it can deal with complaints about maladministration in the 24 official EU languages and raise awareness about the Ombudsman's work. In 2013, the European Ombudsman's establishment plan contained 67 posts.

A full and regularly updated staff list, including detailed information on the structure of the Ombudsman's office and the tasks of each section, is available on the Ombudsman's website (www.ombudsman.europa.eu) in the 24 official EU languages.



The European Ombudsman's team.



How to contact the European Ombudsman

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LinkedIn: www.linkedin.com/company/272026

YouTube: www.youtube.com/eotubes

Visit

If you wish to visit the European Ombudsman's offices in Brussels or Strasbourg, please contact us in advance.



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