



Apologising as a means of putting things right - A practical guide for EU civil servants

A. Introduction

This is a practical guide on how to frame ‘apologies’ as a means of putting things right. It lists factors which, from the European Ombudsman’s (EO) experience, are important in determining whether an apology can be an appropriate form of redress where there has been maladministration.

This guide is concerned solely with situations in which an apology will have a subjective and perhaps emotional impact on the person to whom it is addressed. The EO does not regard apologies as an instrument of administrative law that could, for instance, be used by individuals or companies as a basis for pursuing financial compensation. An apology should aim to constitute a final instrument of redress that ‘puts things right’.

B. Ombudsman’s approach

An apology is most likely to be accepted, and to satisfactorily conclude a complaint, where it is made spontaneously and on the initiative of the institution concerned. In the words of European Ombudsman Emily O’Reilly:

“In order to be effective, an apology must be sincere. An apology that is perceived as insincere only makes matters worse. The complainant is more likely to accept that an apology is sincere if it is offered by the institution on its own initiative, rather than in response to a formal suggestion from the Ombudsman.”

An apology for maladministration is more likely to be acceptable to the complainant, and to resolve matters, where:

1. the institution itself **takes the initiative** to apologise

2. the apology is supported by **concrete explanations** and **concrete commitments** about future behaviour

By the time a complaint has been made to the EO, the chances of resolving the matter by way of an apology are somewhat reduced. Some complainants may feel that an apology made after the EO's intervention is not that genuine or meaningful. There is the risk that the complainant will see the apology simply as a means of closing the EO's inquiry.

Nevertheless, an apology made by the institution, after it has been notified that a complaint has been made to the EO, can often be effective and acceptable. Ideally, such an apology should be made as soon as possible after being notified that a complaint has been made. It is normal that an institution needs to review the situation once it finds out that a complaint has been made to the EO. An apology made based on this review, and before the EO has expressed a view on the merits of the complaint, could be accepted by the complainant as an effective form of redress.

It is important that the apology be personalised, written in clear and simple language, and signed by an identified civil servant who speaks on behalf of the institution. Accordingly, the apology should be made in the first person ("I/we") active voice and not the third person ("it/one") passive voice.

It is also important that the apology is specific about what went wrong.

Bad example: "The delay in dealing with your application is regretted."

Good example: "We apologise that it took more than three weeks to register your application. We also apologise for the fact that we did not keep you informed about the subsequent delays resulting from the need to consult with the national authorities."

Similarly, the apology should be quite specific in recognising the consequences of the mistake for the complainant (empathetic):

Good example: "We recognise and deeply regret any implications this issue may have had for your research."

If possible, the institution should think beyond the apology. It is often possible to show the institution's genuine commitment to better practice by making a specific offer to be helpful to the complainant in the future. This can help demonstrate that the institution has learned a lesson from the experience.

Good example (specific assistance): "We understand that you intend to do further research in this field. Please do not hesitate to contact us, referring to this correspondence, if you would like to visit our offices for research purposes. We will be happy to facilitate your visit in any way we can."

Good example (systemic improvements): "As a result of the delays in your case, which you have brought to our attention, we have decided to update our internal procedures, with a view to providing a better service

in the future.”

To be acceptable, an apology must be made directly to the persons adversely affected by the action or inaction of the institution. Expressing regret to a third party, such as the EO, is not a substitute for actually apologising directly to the person affected.

Generally, a complainant will not expect that an apology should come from the individual civil servant who dealt with the issues in question - although there may be some cases where this would be appropriate. Apologies from individual civil servants must always be genuine.

Bad example: “Since I have been ordered to make an apology, I am doing so with a view to bringing these matters to a close...I am therefore sorry if you perceived that my actions were unacceptable.”

C. Making apologies public

In certain cases - for example, where a complainant asks or for reputational reasons - an apology will have to be made publicly or the fact that an institution apologised will have to be made public. However, before an institution decides to make public an apology, it should check with the recipient that this is something he or she wants.

A complainant may also decide themselves to publicise an apology received. Social media and the internet have made it much easier for individuals to draw attention to such matters. This should always be borne in mind when an institution makes an apology.

D. Summary

To be effective, an apology should:

- be made at the earliest possible opportunity,
- be made directly to the person concerned,
- be sincere and empathetic,
- be personalised and signed by a named civil servant,
- be written in clear and simple language,
- be specific about what went wrong in the case,
- recognise the negative consequences for the person concerned,
- where possible, make a commitment to better practice in the future.