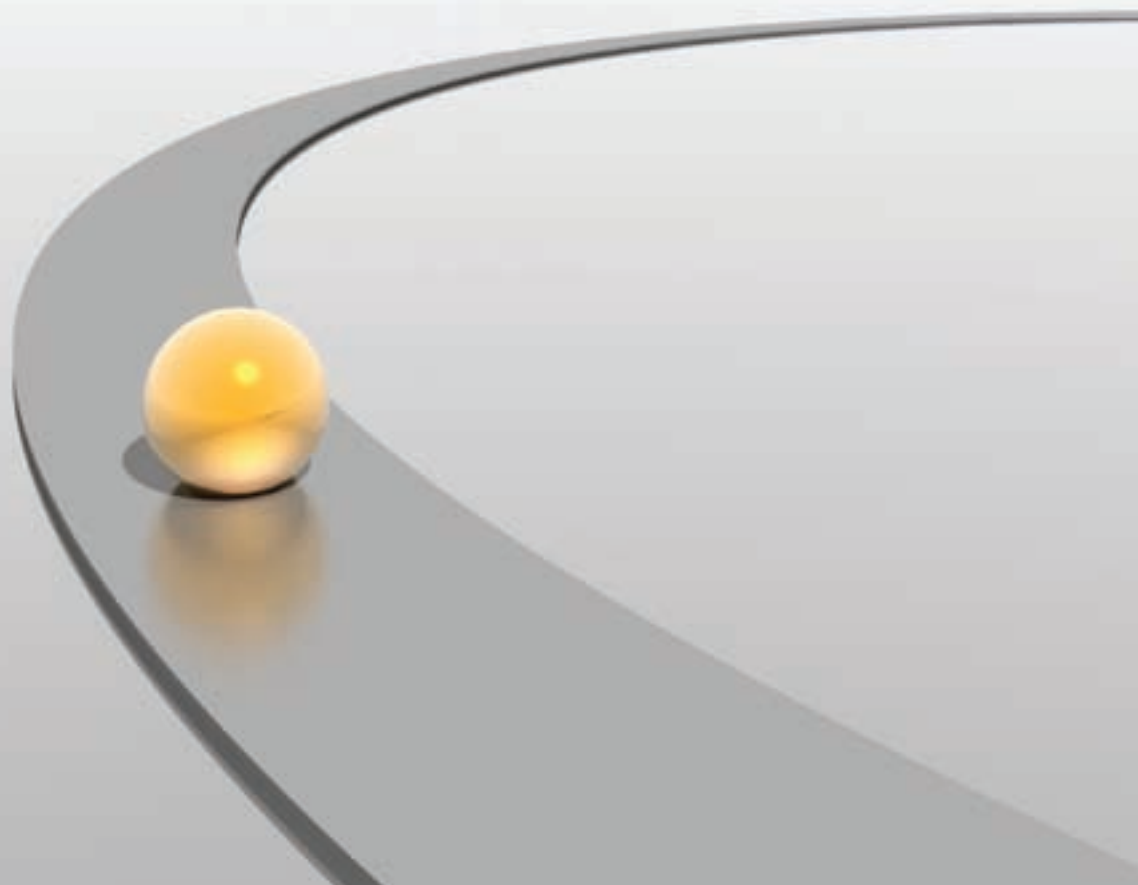


**T H E E U R O P E A N O M B U D S M A N**



**A N N U A L R E P O R T 2 0 0 7**

**EXECUTIVE SUMMARY AND STATISTICS**







**T H E E U R O P E A N O M B U D S M A N**

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**EXECUTIVE SUMMARY AND STATISTICS**

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## INTRODUCTION

The year 2007 was an important one for the European citizens' right to good administration. On 12 December, the EU's Charter of Fundamental Rights, originally proclaimed in December 2000, was signed and proclaimed again by the Presidents of the EU's three main institutions — the Parliament, Commission and Council. The commitment to a legally binding Charter, contained in the Treaty of Lisbon, reflects a growing realisation that citizens should be placed at the centre of Europe's concerns. From the Ombudsman's perspective, the Charter is groundbreaking in recognising, for the first time, the right to good administration as a fundamental right of Union citizenship (Article 41).



### *Good administration*

Since I took up the post on 1 April 2003, promoting good administration has been an absolute priority for the European Ombudsman. I constantly remind the EU institutions and bodies that good administration requires much more of civil servants than merely avoiding unlawful behaviour. Officials must be service-minded and ensure that members of the public are properly treated and enjoy their rights fully.

This message seems to be producing concrete results. I am happy to report that the EU institutions and bodies worked hard in 2007 to resolve complaints, remedy injustices and rectify mistakes. During the year, we saw a doubling in the number of cases settled by the institution concerned — an unprecedented 35% of our inquiries were closed after the relevant institution agreed to settle the matter. We should not underestimate the importance of this achievement for complainants, and for citizens more generally. I firmly believe that we are making significant progress in moving closer to a real culture of service.

The seven star cases highlighted in this Report bear witness to this change in attitude. No fewer than four concern the European Commission, which acted quickly and constructively to settle a range of grievances. I must also single out the European Aviation Safety Agency, which for the second year running has produced a star case, demonstrating its willingness to work constructively with the Ombudsman to resolve problems. The Council apologised to a complainant after I brought a language issue to its attention and confirmed its commitment to avoiding similar problems in the future. Finally, the European Central Bank provided a most helpful reply to a concerned citizen, stressing that it attached great importance to clarification of the issues she had raised and inviting her to address any further questions to its experts. My intention in highlighting these cases is to present models of good administration for all EU institutions and bodies to take inspiration from and to measure their own practices against. I will continue in 2008 to encourage the careful nurturing of a culture of service in order to meet citizens' expectations.

Some of the results that we obtained for citizens and that are documented in this Report were achieved without a formal exchange of correspondence with the institution. We have now reached a stage where our relations with the institutions are such that we can solve a growing number of cases rapidly, avoiding the need for a lengthy inquiry. I have begun to make wider use of more informal procedures to help resolve problems in a flexible way and will continue to develop this approach in 2008. To me, this marks a watershed for our institution, proving the extent to which the Ombudsman is respected and the institutions are keen to help the citizen.



To be sure, problems remain. Once again in 2007, 15% of cases were closed with a critical remark because the institution concerned failed to live up to the standards of service that citizens are entitled to receive. Examples of these cases are included in this Report. They range from one institution refusing to change its recruitment procedures, essentially for reasons of its own administrative convenience, to another excessively delaying an infringement procedure without offering any specific explanations as to why. We will again produce a follow-up report to these critical remarks in 2008 to ensure that the institutions learn from them. I also intend to explore ways of making the Ombudsman's decisions easier to understand, so that they can be even more effective in providing guidance, for both citizens and officials, on what constitutes good administration.

It is clear that there is still work to be done in promoting the principles of good administration within the EU institutions and bodies. To help develop useful strategies in this regard, I convened a workshop in Brussels in November 2007 which saw a lively exchange of views on how the European Ombudsman can help make the right to good administration a reality. The discussions brought forward many stimulating and innovative ideas for the years ahead. I look forward to putting them into practice for the benefit of citizens throughout Europe.

### *Better communication*

I ended my introduction to the 2006 Annual Report by highlighting my dual aim for the year ahead, namely, working with the institutions to promote good administration and refocusing my communication efforts so that all those who might need to make use of the European Ombudsman's services are properly informed of how to do so.

With regard to this second aim, 2007 was a landmark year. We finally turned the corner in terms of the rate of admissible complaints. Thanks to an ambitious and carefully targeted information campaign, the number of admissible complaints increased in both absolute and relative terms compared to 2006. As a result, 17% more inquiries were opened during the year on the basis of complaints received. At the same time, as a result of our efforts to improve information to citizens about what the European Ombudsman can and cannot do, more citizens than ever were helped to find appropriate means of redress at the national, regional and local levels.

A key development in this regard in 2007 was the adoption of the European Network of Ombudsmen Statement. The aim of the Statement is to make the EU dimension of the work of ombudsmen better known and to clarify the service that members of the Network provide to people who complain about matters within the scope of EU law. The Statement is available on the European Ombudsman's website in all EU official languages and is reproduced in full in Chapter 5 of this Report. Members of the Network will work proactively to promote awareness of the Statement and thus to ensure that citizens understand who is best placed to resolve their EU law-related complaints.

A further important initiative in this area should come to fruition in 2008. Over the past year, my office has been developing an interactive guide that will be launched in the coming year as part of the Ombudsman's new website. This key feature will help citizens find the most appropriate avenue of redress for their grievances. The guide should enable a greater proportion of complainants to address directly the body best equipped to deal with their complaint. The success of the guide will hopefully be demonstrated by a further fall in the number of inadmissible complaints received by my office.

Identifying the most appropriate avenue of address the first time around is important for many reasons. It helps avoid the frustration involved for citizens who are told that the body they have turned to is not able to help them. It also means that complaints are resolved more promptly and effectively, thus ensuring that citizens can fully enjoy their rights under EU law. A final important consideration is that, by reducing the proportion of inadmissible complaints that it receives, my institution will be better able to fulfil its core role — that of helping citizens who are unhappy with the way they have been treated by the EU institutions and bodies. The results that my office is able to achieve for such citizens are, without a doubt, the most satisfying aspect of my work. Many examples of such successes from 2007 are highlighted in this Report. I look forward to continuing this work for European citizens in the year ahead.





As I have often said, the Annual Report is the Ombudsman's most important publication. It enables him to provide an account of his work to the European Parliament, to which he reports. It serves as a resource to the EU institutions and bodies in helping them to improve their administration. It makes the Ombudsman's work accessible to the wide range of people who wish to follow his activities, including the general public, the media, academics, civil servants and colleagues from ombudsman offices around the world. Changes have been made to the Report in recent years to improve its user-friendliness. Further improvements constitute an additional novel feature of the present Report. They can be seen most notably in Chapters 5 and 6, where we have opted to provide an overview and analysis of activities rather than detailed lists of events and meetings as before. We hope that this makes for more interesting reading and provides a true reflection of the added-value of these important initiatives. We look forward to receiving your feedback.

Strasbourg, 15 February 2008

P. Nikiforos DIAMANDOUROS





# 1 EXECUTIVE SUMMARY

The thirteenth Annual Report of the European Ombudsman to the European Parliament provides an account of the Ombudsman's activities in 2007. It is the fifth Annual Report to be presented by Mr P. Nikiforos DIAMANDOUROS, who began work as European Ombudsman on 1 April 2003.

## STRUCTURE OF THE REPORT

The Report consists of six chapters and four annexes. It starts with a personal introduction by the Ombudsman, in which he highlights the most notable developments of the past year and looks to the year ahead. It is followed by this Executive Summary, which constitutes Chapter 1.

Chapter 2 describes the Ombudsman's procedures for handling complaints and conducting inquiries. It gives an overview of the complaints dealt with during the year, including a thematic analysis of the results of cases closed after an inquiry. This analysis covers the most significant findings of law and fact contained in the Ombudsman's decisions in 2007.

Chapter 3 consists of a selection of summaries of the Ombudsman's decisions for 2007, covering the range of subjects and institutions involved in complaints and own-initiative inquiries. The summaries are organised first by the type of finding or outcome and then by the institution or body concerned. The chapter ends with a summary of a decision following an own-initiative inquiry and an example of a query submitted by a national ombudsman.

Chapter 4 concerns relations with other institutions and bodies of the European Union. It begins by outlining the value of the Ombudsman's constructive working relations with the institutions and bodies, and goes on to list the various meetings and events that took place in this regard in 2007.

Chapter 5 deals with the European Ombudsman's relations with the community of national, regional and local ombudsmen in Europe and beyond. The activities of the European Network of Ombudsmen are described in detail, while the Ombudsman's participation in relevant seminars, conferences and meetings is also covered.

Chapter 6 provides an overview of the Ombudsman's communications activities. The chapter is divided into six sections, covering the year's highlights, the Ombudsman's information visits, conferences and meetings involving the Ombudsman and his staff, media relations, publications and online communications.

Annex A contains statistics on the work of the European Ombudsman in 2007. Annexes B and C provide details, respectively, of the Ombudsman's budget and personnel. Annex D indexes the decisions contained in Chapter 3 by case number, by subject matter, and by the type of maladministration alleged. It also lists the star cases and all cases closed with a critical remark in 2007.

## SYNOPSIS

### **The mission of the European Ombudsman**

The office of European Ombudsman was established by the Maastricht Treaty as part of the citizenship of the European Union. The Ombudsman investigates complaints about maladministration in the activities of Community institutions and bodies, with the exception of the Court of Justice and the



Court of First Instance acting in their judicial role. With the approval of the European Parliament, the Ombudsman has defined “maladministration” in a way that requires respect for human rights, for the rule of law and for principles of good administration.

As well as responding to complaints from individuals, companies and associations, the Ombudsman works proactively, launching inquiries on his own initiative, meeting with Members and officials of the EU institutions and bodies, and reaching out to citizens to inform them about their rights and about how to exercise those rights.

### **Complaints and inquiries in 2007**

During 2007, the Ombudsman received 3 211 new complaints, compared to 3 830 in 2006. On the other hand, the number of admissible complaints increased in both absolute and relative terms, from 449 (12% of the total) in 2006 to 518 (16%) in 2007. As a result, 17% more inquiries were opened during the year on the basis of complaints received.

A total of 58% of all complaints received by the Ombudsman in 2007 were sent electronically, either by e-mail or using the complaint form on the Ombudsman’s website. Complaints were sent directly by individual citizens in 3 056 cases and 155 came from associations or companies.

In almost 70% of cases, the Ombudsman was 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 for a prompt and effective solution to the problem.

A total of 303 new inquiries were opened during the year on the basis of complaints. The Ombudsman also began six inquiries on his own initiative. Overall, the European Ombudsman dealt with a total of 641 inquiries in 2007, 332 of which were carried over from 2006.

As in previous years, most of the inquiries concerned the European Commission (413, or 64% of the total). Given that 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. There were 87 inquiries (14% of the total) concerning the European Personnel Selection Office (EPSO), 59 (9%) concerning the European Parliament, 22 (3%) concerning the European Anti-Fraud Office, and 8 (1%) concerning the Council of the European Union.

The main types of maladministration alleged were lack of transparency, including refusal of information (in 28% of cases), unfairness or abuse of power (18%), unsatisfactory procedures (13%), avoidable delay (9%), discrimination (8%), negligence (8%), legal error (4%), and failure to ensure fulfilment of obligations, that is, failure by the European Commission to carry out its role as “guardian of the Treaty” vis-à-vis the Member States (3%).

The main e-mail account of the Ombudsman was used to reply to a total of 7 273 e-mails requesting information in 2007. Of these, 3 127 were mass mailings submitted by citizens and concerned complaints already received by the European Ombudsman, while 4 146 constituted individual requests for information.

In total, therefore the Ombudsman handled 10 484 complaints and information requests from citizens during the year in question.

### **The results of the Ombudsman’s inquiries**

In 2007, the Ombudsman closed 348 inquiries. This represents a 40% increase compared to 2006. Of these inquiries, 341 were linked to complaints and seven were own-initiatives. An overview of the findings can be found below.

#### ***No maladministration***

In 2007, 95 cases were closed with a finding of no maladministration. This is not necessarily a negative outcome for the complainant, who at least benefits from receiving a full explanation from



the institution or body concerned of what it has done, as well as the Ombudsman's view of the case. Among the examples of cases in which no maladministration was found in 2007 are the following:

- The Ombudsman received a complaint alleging that the European Commission had wrongly failed to take action against Ireland for possible infringement of the EU Habitats Directive. The complainant also complained about the Commission's decision not to take further action on arguments relating to possible infringement of the Waste Directive. The Ombudsman found that the Commission had provided a reasonable explanation of its strategic role in relation to the implementation of these Directives. He also noted that the Commission had given the complainant relevant useful advice in this case. (3660/2004/PB)
- A complainant to the Ombudsman alleged, inter alia, lack of transparency and undue delay by the European Medicines Agency (EMA) in response to concerns she had raised with it about an antidepressant's safety and suicide risk. The complainant's husband had committed suicide while taking that drug, and the complainant had contacted the Agency with several questions and requests for information. In the course of the inquiry, the Agency apologised to the complainant for the fact that it had not replied to certain of her questions and provided answers to these questions. While the complainant remained dissatisfied, the Ombudsman took the view that the Agency's action had removed the concerns he had identified and that there was no longer any maladministration. (2370/2005/OV)
- Greenpeace complained to the Ombudsman, alleging that the Commission had made inaccurate, misleading and defamatory accusations in relation to a study the NGO had issued on the question of "revolving doors" between the Commission and the lobbying chemical industry. The Ombudsman's inquiry concluded that this allegation had not been substantiated. While finding no maladministration, he underlined the importance of transparency in relation to lobbying activities exercised during the legislative procedures. (2740/2006/TN)

Even if the Ombudsman does not find maladministration, he may identify an opportunity for the institution or body to improve the quality of its administration in the future. In such cases, the Ombudsman makes a further remark, as he did, for instance in the following case:

- A Polish environmental NGO alleged that the European Investment Bank (EIB) had acted contrary to its own "Environmental Statement" when it co-financed a road modernisation project in Poland. The Ombudsman found no maladministration. However, given that the complainant had submitted a parallel complaint to the Polish Ombudsman, the European Ombudsman encouraged the EIB to consider establishing channels of communication with, and seeking information from, relevant national and regional control bodies, such as ombudsmen. These bodies could serve as additional sources of information concerning compliance of EIB-financed projects with national and European law. (1779/2006/MHZ)

#### *Cases settled by the institution and friendly solutions*

Whenever possible, the Ombudsman tries to achieve a positive-sum outcome that satisfies both the complainant and the institution complained against. The co-operation of the Community institutions and bodies is essential for success in achieving such outcomes, which help enhance relations between the institutions and citizens and can avoid the need for expensive and time-consuming litigation.

During 2007, 129 cases were settled by the institution or body itself following a complaint to the Ombudsman. This is twice the number of cases settled in 2006 and reflects a growing willingness on the part of the institutions and bodies to see complaints to the Ombudsman as an opportunity to put right mistakes that have occurred and to co-operate with the Ombudsman for the benefit of citizens. Among the settled cases in 2007 were the following:

- After a German university complained about a payment dispute it was having with the Commission regarding a project under the Erasmus Programme, the Ombudsman contacted the Commission, which settled the case within two weeks. The university's efforts to convince the



Commission that a calculation error had occurred had proved unsuccessful. The Commission admitted the mistake and paid back the requested sum of EUR 5 400 plus interest. The Ombudsman commended Directorate-General Education and Culture for the exemplary way in which it had handled this complaint after he brought it to its attention. (3495/2005/GG)

- The Commission reimbursed an outstanding sum of EUR 88 000 to a French consulting firm, which claimed that the institution had not repaid the entire eligible costs for its participation in an Information Society Technologies programme with China. The Commission argued that the complainant had made a mistake in its cost statements. After the Ombudsman intervened in the case, it agreed to pay the outstanding sum. (1471/2007/(CC)RT)

If an inquiry leads to a finding of maladministration, the Ombudsman tries to achieve a friendly solution whenever possible. In some cases, a friendly solution can be achieved if the institution or body concerned offers compensation to the complainant. Any such offer is made *ex gratia*, that is, without admission of legal liability and without creating a legal precedent.

Five cases were closed during the year after a friendly solution had been achieved. At the end of 2007, 31 proposals for friendly solutions were still under consideration. Among the cases involving a friendly solution in 2007 were the following:

- The Commission accepted the Ombudsman's proposal for a friendly solution and reduced the amount to be recovered from a contractor involved in a project in Lebanon. This followed a complaint in which the contractor alleged unfair handling of the contract. Although the Ombudsman did not find all of the complainant's allegations to be justified, he concluded that the Commission's decision to recover certain amounts constituted maladministration. In the interest of taking steps to settle the matter, the Commission agreed to reassess the file. (2577/2004/OV)
- The European Aviation Safety Agency (EASA) repealed a contested decision after the Ombudsman made a proposal for a friendly solution. The case concerned an EASA decision relating to the type-certification basis of certain aircraft. After analysing the relevant legal provisions, the Ombudsman was not convinced that the decision had a sufficient legal basis. EASA replied by saying that it had now been able to obtain the information needed to issue a type certificate and had therefore repealed the contested decision. (1103/2006/BU)
- The former European Monitoring Centre for Racism and Xenophobia (EUMC) accepted a friendly solution proposal by providing better information to an unsuccessful tenderer about how his bid compared with that of the winning organisation. The complainant had turned to the Ombudsman alleging that the EUMC had failed to give him satisfactory responses to his questions and had failed to apply transparent criteria. Following the inquiry, the complainant expressed his gratitude to the Ombudsman for his work and for providing a reliable safeguard for transparency in the EU. (1858/2005/BB and 1859/2005/BB)

### *Critical remarks, draft recommendations and special reports*

If a friendly solution is not possible or if the search for such a solution is unsuccessful, the Ombudsman either closes the case with a critical remark to the institution or body concerned or makes a draft recommendation.

A critical remark is normally made if (i) it is no longer possible for the institution concerned to eliminate the instance of maladministration, (ii) the maladministration appears to have no general implications, and (iii) no follow-up action by the Ombudsman seems necessary. A critical remark is also made if the Ombudsman considers that a draft recommendation would serve no useful purpose or that it does not seem appropriate to submit a special report to Parliament in a case where the institution or body concerned fails to accept a draft recommendation.



A critical remark confirms to the complainant that his or her complaint is justified and indicates to the institution or body concerned what it has done wrong, so as to help it avoid maladministration in the future. In 2007, the Ombudsman closed 55 inquiries with critical remarks. For example:

- The Ombudsman criticised the Commission for its failure to publish, in 2006 as required by law, its annual report 2005 on access to European Parliament, Council and Commission documents. This followed a complaint from the NGO Statewatch. While recognizing that, in September 2007, the Commission finally published the report in question, the Ombudsman pointed out that the timely publication of reports is a key mechanism of accountability to European citizens. (668/2007/MHZ)
- The Ombudsman issued two critical remarks against the European Personnel Selection Office (EPSO) in two cases concerning the use of languages of the “new” Member States as opposed to those of the “old” Member States. This followed a complaint from a Polish association concerning recruitment tests. EPSO informed the Ombudsman that the language requirements for competitions had been changed in the meantime. (3114/2005/MHZ)
- The Ombudsman criticised the Commission for failing to offer valid reasons for not giving access to the annual accounting reports it receives from the Member States in relation to agricultural subsidies. The Commission argued that the reports containing the information had been loaded onto a database and no longer existed as such. The information requested by the complainant would require complex new programming of the database, it said. Although considering the Commission’s approach to be unsatisfactory, the Ombudsman did not pursue the matter further since the legal issues could be examined by the Community legislator, from a general perspective, in the context of the announced reform of Regulation 1049/2001 on access to documents. (1693/2005/PB)

It is important for the institutions and bodies to follow up critical remarks from the Ombudsman, taking action to resolve outstanding problems and thus to avoid maladministration in the future. During 2007, the Ombudsman carried out a study of the follow-up undertaken by the institutions involved to all critical remarks and further remarks made in 2006. The study is available on the Ombudsman’s website (<http://www.ombudsman.europa.eu>). The Ombudsman envisages carrying out a similar exercise and informing the public of his findings on an annual basis.

In cases where follow-up action by the Ombudsman does appear necessary, that is, where it is possible for the institution concerned to eliminate the instance of maladministration, or in cases where the maladministration is particularly serious, or has general implications, the Ombudsman normally makes a draft recommendation to the institution or body concerned.

During 2007, eight draft recommendations were made. In addition, seven draft recommendations from 2006 led to decisions in 2007. Three cases were closed during the year when a draft recommendation was accepted by the institution. One case led to a Special Report to the European Parliament. Five cases were closed for other reasons. At the end of 2007, eight draft recommendations were still under consideration, including one made in 2004 and one made in 2006.

Among the draft recommendations made in 2007, one concerned public access to details of the payments received by MEPs. This followed a complaint from a Maltese journalist, whose request for details of certain MEPs’ allowances was rejected by the Parliament on grounds of data protection. The latter’s detailed opinion on the Ombudsman’s draft recommendation in this case (3643/2005/(GK)WP) is due to be delivered by the end of February 2008. In another draft recommendation made in 2007, the Ombudsman urged the Commission to avoid in the future any unjustified restrictions with regard to the official languages in which proposals under a call for tender may be submitted (259/2005/(PB)GG). Given that this inquiry was still open at the end of 2007, it does not appear in Chapter 3 of the Report.



Among the draft recommendations accepted in 2007 were the following:

- The Commission accepted a draft recommendation in which the Ombudsman called on it to correct inaccurate and misleading information contained in leaflets, posters and a video presentation on air passenger rights. Two airline associations had turned to the Ombudsman criticising the information provided by the Commission on the rights of travellers to compensation and assistance, in the event of denied boarding, cancellation of flights or long delays. After the Ombudsman's intervention, the Commission replaced the erroneous information material. (1475/2005/(IP)GG and 1476/2005/(BB)GG)
- The Commission accepted a draft recommendation in which the Ombudsman called on it not to recover a pension payment that was made in error after the death of a former employee. This followed a complaint by the son of the deceased. More than four years after the death of his father, the Commission had asked him to pay back EUR 1 747. It subsequently agreed to waive the reimbursement request. (1617/2005/(BB)JF)

If a Community institution or body fails to respond satisfactorily to a draft recommendation, the Ombudsman may send a special report to the European Parliament. This constitutes the Ombudsman's ultimate weapon and is the last substantive step he takes in dealing with a case, since the adoption of a resolution and the exercise of Parliament's powers are matters for the latter's political judgment. To give an example from 2007:

- The Ombudsman submitted a special report to the European Parliament, criticising the Commission for not dealing with a complaint concerning the European Working Time Directive. More than six years ago, a German doctor asked the Commission to open proceedings against Germany, alleging that it was infringing the Directive. Despite pressure from the Ombudsman, the Commission refrained from taking action on the complaint, arguing that its proposals for amending the Directive are before the Community legislator. The Ombudsman insisted that this case raised an important issue of principle concerning the way the Commission deals with infringement complaints from citizens. The Commission should either reject the complaint, or open infringement proceedings, he said. Simply doing nothing is not in conformity with principles of good administration. (3453/2005/GG)

### Own-initiative inquiries

The Ombudsman makes use of his power to launch own-initiative inquiries in two main instances. Firstly, he may use it to investigate a possible case of maladministration when a complaint has been submitted by a non-authorised person (i.e., when the complainant is not a citizen or resident of the Union or a legal person with a registered office in a Member State). Two such own-initiative inquiries were opened in 2007. The Ombudsman may also use his own-initiative power to tackle what appears to be a systemic problem in the institutions. For example:

- In December 2007, the Ombudsman launched an own-initiative inquiry into the subject of the timeliness of payments made by the Commission. He asked the Commission to provide information on what has been done to avoid late payment, statistical data on late payment cases, as well as information about the Commission's policy on paying interest. This follows complaints from individuals, companies and organisations involved in EU-funded projects and contracts. (OI/5/2007/GG)

Among the other own-initiative inquiries opened in 2007 were one into EPSO's computer-based testing (OI/4/2007/ID) and one concerning the management of human resources at the Commission's Joint Research Centre (OI/6/2007/MHZ).

The following own-initiative inquiry was closed during the year:

- The Ombudsman concluded an own-initiative inquiry into the measures adopted by the Commission to ensure that people with disabilities are not discriminated against in their relations with the institution. Among the positive measures he identified were those to provide easier access to information via the Commission's website and to improve recruitment and





promotion conditions. The Ombudsman underlined, however, that more should be done to sensitise the Commission's staff to the needs of people with disabilities. He also criticised the situation in the European Schools for pupils with disabilities as inadequate. (OI/3/2003/JMA)

### Star cases exemplifying best practice

A number of the aforementioned cases constitute illustrative examples of best practice that warrant inclusion among the "star cases" of 2007. They serve as a model for the other EU institutions and bodies, in terms of how best to react to issues that the Ombudsman raises. The **Commission**, in particular, acted quickly and constructively to settle a range of grievances. In case **3495/2006/GG**, it settled, within two weeks, a payment dispute with a German university after the Ombudsman brought the problem to its attention. Similarly, in case **2577/2004/OV**, it accepted a proposal for a friendly solution and reduced the amount to be recovered from a contractor involved in a project in Lebanon. In another payment dispute, it accepted a draft recommendation in which the Ombudsman called on it not to recover a pension payment that was made in error after the death of a former employee (**1617/2005/(BB)JF**). The Commission further demonstrated its willingness to work constructively with the Ombudsman in accepting a draft recommendation to correct inaccurate and misleading information contained in leaflets, posters and a video presentation on air passenger rights (**1476/2005/(BB)GG**).

Further examples of best practice include case **2580/2006/TN** where the **Council** apologised to the complainant and confirmed its commitment to avoiding similar problems in the future after the Ombudsman brought an issue about the Irish language to its attention. The **European Central Bank** (ECB) provided a most helpful reply to a concerned citizen, stressing that it attached great importance to clarification of the issues she had raised and inviting her to address any further questions to its experts (**630/2007/WP**). A final example of a positive response from the institutions and bodies in 2007 came in case **1103/2006/BU**, where the **European Aviation Safety Agency** (EASA) repealed a contested decision after the Ombudsman made a proposal for a friendly solution. This is the second year running that one of EASA's cases features among the star cases listed in this Report, which is testimony to its willingness to co-operate constructively with the Ombudsman.

### Further analysis

The final section of Chapter 2 of the Annual Report contains reviews of a selection of these and other cases from the perspective of the following thematic categories: (i) openness, including access to documents and information, as well as data protection; (ii) the Commission as guardian of the Treaty; (iii) tenders, contracts and grants; and (iv) personnel matters, including recruitment.

Chapter 3 of the Report contains summaries of 50 out of a total of 348 decisions closing cases in 2007. The summaries reflect the range of subjects and institutions covered by the Ombudsman's inquiries and the different types of finding.

Decisions closing cases are normally published on the Ombudsman's website (<http://www.ombudsman.europa.eu>) in English and, if different, the language of the complainant.

### Relations with EU institutions and bodies

The European Ombudsman devotes considerable time to meeting with Members and officials of the EU institutions and bodies with a view to promoting a culture of service within the EU administration. These meetings allow the Ombudsman to explain the thinking behind his work and to sensitise Members and officials to the need to respond constructively to complaints.

Among the most important meetings to take place in 2007 were three events with civil servants from all levels within the European Commission. Since the Commission is the institution accounting for the highest proportion of inquiries carried out by the Ombudsman, it is particularly important that it take a leading role in developing a culture of service to citizens and of respect for their rights. The feedback that the Ombudsman received during these meetings was very encouraging. Key to facilitating these three meetings were Commission Vice-President Margot WALLSTRÖM,



responsible, inter alia, for relations with the Ombudsman, and Commission Secretary-General Catherine DAY.

Meetings with Members and officials of the European Parliament are also of particular importance, in light of the Ombudsman's privileged relationship with Parliament. The European Parliament elects the Ombudsman and he is accountable to it. Chapter 4 of the Annual Report contains a full overview of these meetings. It covers the Ombudsman's participation in meetings of the Committee on Petitions to present his Annual Report and special reports, his presentation to the Constitutional Affairs Committee on the proposed changes to his Statute, and his speech at the Committee on Civil Liberties, Justice and Home Affairs on the reform of Regulation 1049/2001 on access to documents.

The Ombudsman continued to reach out to the other institutions and bodies in 2007, holding meetings with key representatives of the European Court of Justice, the European Economic and Social Committee, the European Investment Bank, and the European Central Bank.

To help keep his own staff informed about developments in the other EU institutions and bodies, the Ombudsman uses the regular staff meetings that he convenes in Strasbourg to invite external speakers. The President of the EU Civil Service Tribunal, Mr Paul J. MAHONEY, and the European Data Protection Supervisor, Mr Peter HUSTINX, both travelled to Strasbourg in 2007 to present their work to the Ombudsman's staff.

### Relations with ombudsmen and similar bodies

Many complainants turn to the European Ombudsman when they have problems with a national, regional or local administration. The European Ombudsman co-operates closely with his counterparts in the Member States to make sure that citizens' complaints about EU law are dealt with promptly and effectively. This co-operation takes place for the most part under the aegis of the European Network of Ombudsmen. The Network now comprises almost 90 offices in 31 countries, covering the national and regional levels within the Union, as well as the national level in the candidate countries for EU membership plus Norway and Iceland.

One of the purposes of the Network is to facilitate the rapid transfer of complaints to the competent ombudsman or similar body. When possible, the European Ombudsman transfers cases directly or gives suitable advice to the complainant. During 2007, the Ombudsman advised 816 complainants to turn to a national or regional ombudsman and transferred 51 complaints directly to the competent ombudsman.

Chapter 5 of the Ombudsman's Annual Report details the activities of the Network in 2007, the high point of which was the Sixth Seminar of National Ombudsmen of EU Member States and Candidate Countries, which took place in Strasbourg in October. The Seminar was organised jointly by the European Ombudsman and the National Ombudsman of France, Mr Jean-Paul DELEVOYE. All 27 EU Member States were represented at the meeting, as were two of the three candidate countries, plus Norway and Iceland. In line with the announcement made by the European Ombudsman at the Fifth Seminar, regional ombudsman representatives from the EU countries where they exist, namely Belgium, Germany, Spain, Italy, Austria, and the United Kingdom<sup>1</sup>, were also invited to take part for the first time. The theme of the 2007 Seminar was "Rethinking good administration in the European Union".

During the Seminar, the ombudsmen adopted a Statement, the purpose of which is to help inform citizens and other users of ombudsman services of the benefits that they can expect to obtain when they turn to a member of the Network about a matter that falls within the scope of EU law. The Statement is reproduced in full in Chapter 5, which also contains a detailed account of discussions at the Seminar.

Chapter 5 goes on to describe the various other instruments employed by the Network to share experiences and best practice. The *European Ombudsmen – Newsletter* served as an extremely

<sup>1</sup> These countries are listed in the EU protocol order.



valuable tool for exchanging information in 2007. The two issues, published in April and October, included articles on the supremacy of EU law over national law, discrimination and obstacles to free movement, problems in the area of environmental law, the protection of children's rights and the rights of the elderly, problems in the health care sector, and issues of privacy and data protection. The Ombudsman's Internet discussion and document-sharing fora continued to develop during the year, enabling offices to share information through the posting of questions and answers. Several major discussions were also initiated on issues as diverse as age discrimination, the legal framework for non-voluntary psychiatric hospitalisation, public service quality, the status of legal experts in Ombudsman offices, and the European Commission's initiatives to improve the handling of infringement complaints. In addition, the Ombudsman's electronic news service, *Ombudsman Daily News*, was published every working day, and contained articles, press releases and announcements from offices throughout the Network.

In addition to the regular informal exchanges of information through the Network, a special procedure exists through which national or regional ombudsmen may ask for written answers to queries about EU law and its interpretation, including queries that arise in their handling of specific cases. The European Ombudsman either provides the answer directly or, if more appropriate, channels the query to another EU institution or body for response. In 2007, three such queries were received (one each from a national, regional and local ombudsman) and three were closed (including one brought forward from 2005 and one from 2006). An example of a query is provided at the end of Chapter 3.

Information visits to ombudsmen in the Member States and candidate countries have proved highly effective in terms of developing the Network and constitute an excellent means of raising awareness of the range of communications tools it makes available. In the course of 2007, the European Ombudsman visited his ombudsman colleagues in Germany (March), Sweden (May), and Belgium (November).

The Ombudsman's efforts to collaborate with his counterparts stretch beyond the activities of the European Network of Ombudsmen. With a view to promoting ombudsmanship, discussing interinstitutional relations and exchanging best practice in 2007, Mr DIAMANDOUROS attended a range of ombudsman events and met with colleagues from within the EU and further afield. Chapter 5 ends with an overview of these activities.

### **Communications activities**

The European Ombudsman is profoundly aware of the importance of ensuring that those who might have problems with the EU administration know about their right to complain. Each year, strenuous efforts are made to reach out to citizens, companies, NGOs, and other relevant entities to inform them about the Ombudsman's services. In 2007, over 130 presentations were made by the Ombudsman and his staff at conferences, seminars, and meetings. The aforementioned information visits to Germany, Sweden, and Belgium gave him a further opportunity to promote awareness of his role in these countries.

A particular highlight of the year was the Ombudsman's participation in the events organised to celebrate the 50<sup>th</sup> anniversary of the Treaty of Rome. The Open Days organised in Berlin, Budapest, and Warsaw were a particular highlight with hundreds of thousands of people passing by to learn about the Union's activities. The Office also participated, as it does each year, in the Open Days organised by the European Parliament in Strasbourg and Brussels. Material covering the Ombudsman's work was distributed to visitors in 26 languages, together with a range of promotional items. Staff members were present at all of these events to answer questions about the Ombudsman's work.

Media activities continued apace, with the Ombudsman giving six press conferences and over 40 interviews to journalists from the print, broadcast and electronic media in 2007. Seventeen press releases were issued and distributed to journalists and interested parties throughout Europe. Among the topics covered were the Ombudsman's inquiry into late payment, problems in the area of access to documents and information, a complaint concerning the European Working Time



Directive, and problems with information material produced by the Commission on the rights of air passengers.

A number of publications were produced and distributed in 2007 with the aim of informing key stakeholders and the general public about the service the Ombudsman can offer EU citizens and residents. Of particular interest in 2007 was a new information sheet for businesses and organisations, which explains succinctly what the Ombudsman can do for these entities. The information sheet was distributed, along with other relevant material, as part of a mailing campaign aimed at potential complainants. Chambers of commerce and law firms throughout the EU were particularly addressed during the campaign, with over 5 000 personalised mailings sent. This campaign proved to be a big success with requests for many thousands of extra copies of the Ombudsman's publications being received throughout 2007.

The Ombudsman's website was regularly updated with decisions, press releases, and details of his communications activities. A new section of the website was created in order to give a higher profile to the Ombudsman's own-initiative inquiries.

From 1 January to 31 December 2007, the Ombudsman's website received 449 418 unique visitors. The English-language pages of the site were the most consulted, followed by the French, Spanish, German and Italian pages. In terms of the geographical origin of visits, the greatest number of visitors came from Italy, followed by Spain, Sweden, the United Kingdom, and Germany. The links section of the Ombudsman's website includes links to the sites of national and regional ombudsmen throughout Europe. Over 82 000 visits were made to the links pages during 2007, clearly demonstrating the added value for citizens of the services provided through the European Network of Ombudsmen.

### **Internal developments**

The Ombudsman continued his efforts in 2007 to ensure that the institution was equipped to deal with complaints from citizens of 27 Member States in 23 Treaty languages.

The Ombudsman appointed a new Head of the Legal Department on 1 July 2007, following an open recruitment procedure. With a view to enhancing quality control and to improving productivity, the Legal Department was divided into four teams, each headed by a principal legal supervisor. A new IT application was introduced to facilitate case-management. All of these developments proved invaluable in helping to increase productivity during the year. The 40% rise in the number of cases closed in 2007 confirms that the improvements made in the structure and functioning of the Ombudsman's Legal Department in recent years are beginning to have a real effect. The Ombudsman will build on this further in 2008.

Also from an organisational perspective, 2007 saw a slight change with the Ombudsman's complaint-handling secretariat now supervised directly by the Assistant to the Head of the Legal Department. This reflects more closely the functions of that secretariat which are directly linked to the work of the Legal Department.

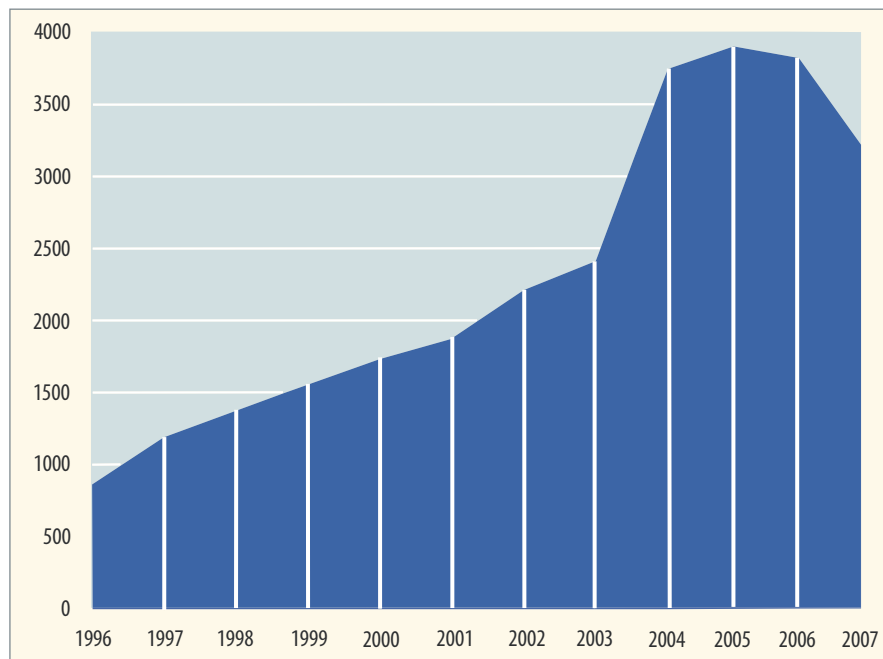
The establishment plan of the Ombudsman showed a total of 57 posts in 2007, the same as for 2006. No increase is foreseen for 2008. Total budgeted appropriations for 2008 are EUR 8 505 770 (compared to EUR 8 152 800 in 2007).



## STATISTICS

**1 CASES DEALT WITH DURING 2007**

<b>1.1 TOTAL CASELOAD IN 2007</b> .....	<b>3 760</b>
– Inquiries not closed on 31.12.2006 .....	332 <sup>1</sup>
– Complaints awaiting decision on admissibility on 31.12.2006 .....	211
– Complaints received in 2007 .....	3 211
– Own-initiatives of the European Ombudsman .....	6

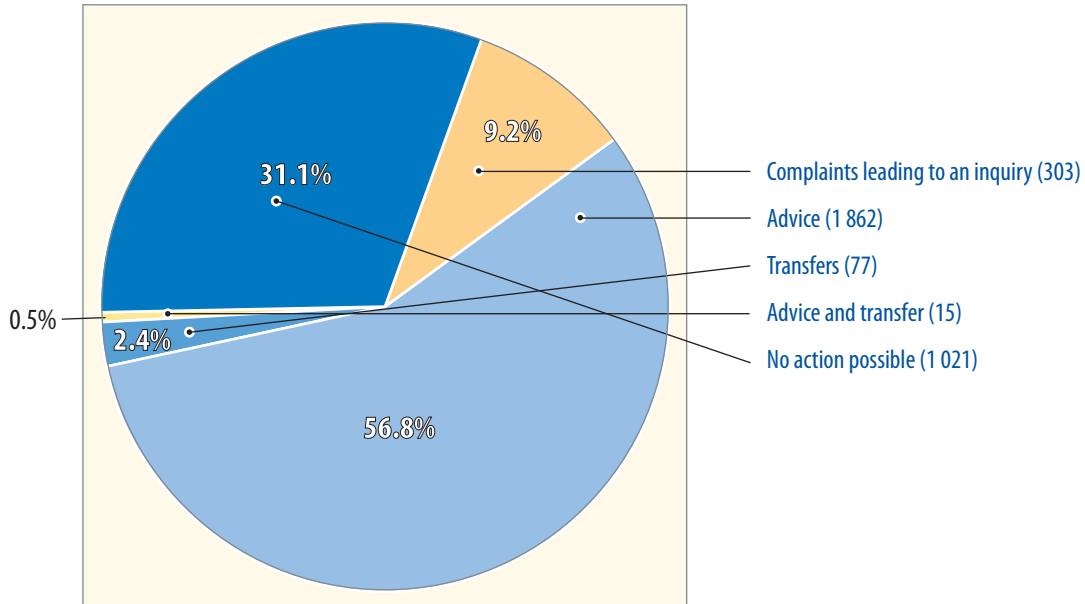
**Number of complaints 1996-2007****1.2 EXAMINATION OF ADMISSIBILITY/INADMISSIBILITY COMPLETED ..... 95%**

<sup>1</sup> Of which nine own-initiative inquiries of the European Ombudsman and 323 inquiries based on complaints.

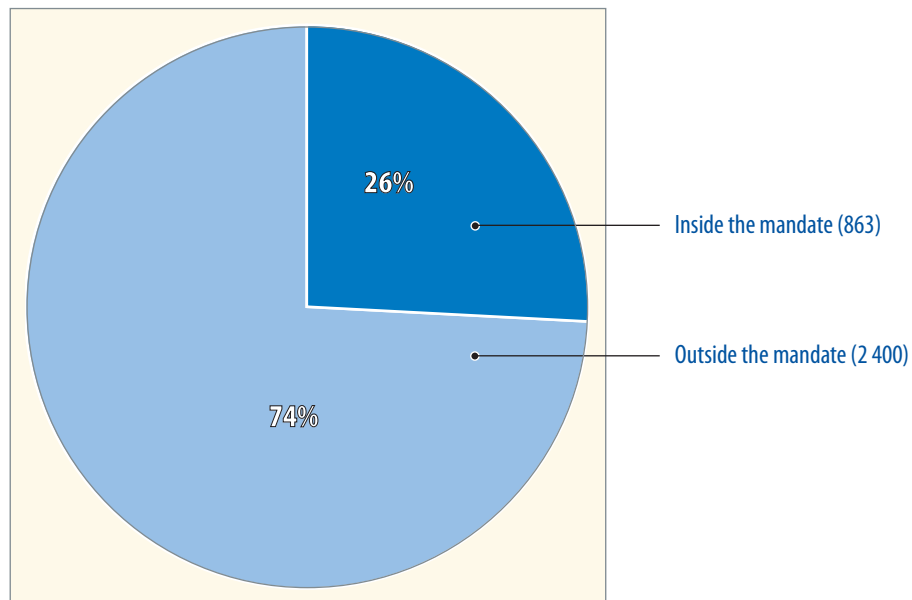


### 1.3 CLASSIFICATION OF THE COMPLAINTS

According to the type of action taken by the European Ombudsman to benefit the complainants

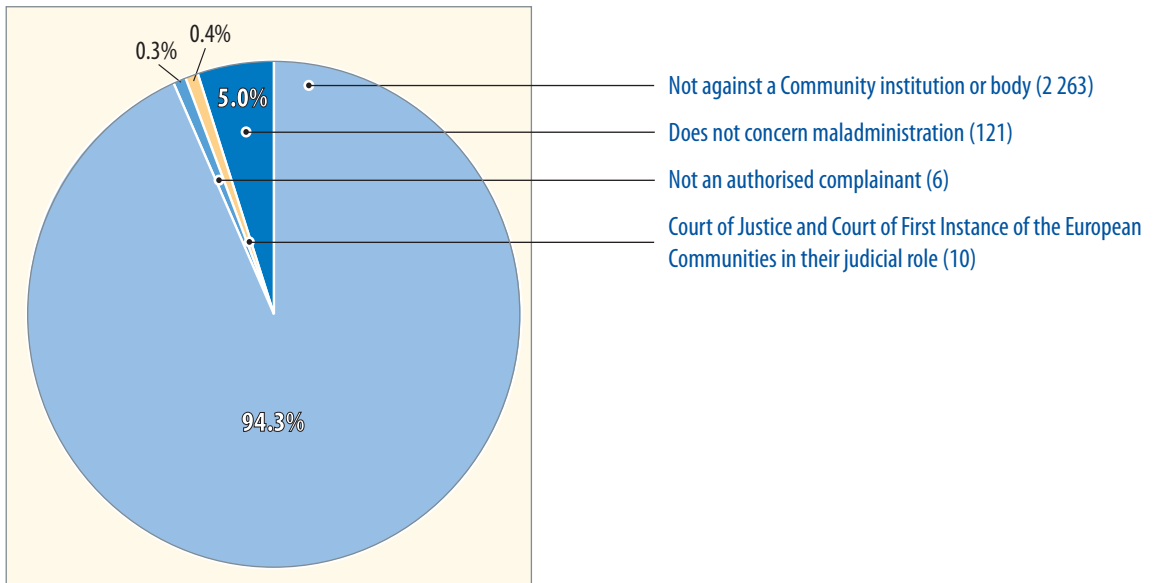


According to the mandate of the European Ombudsman



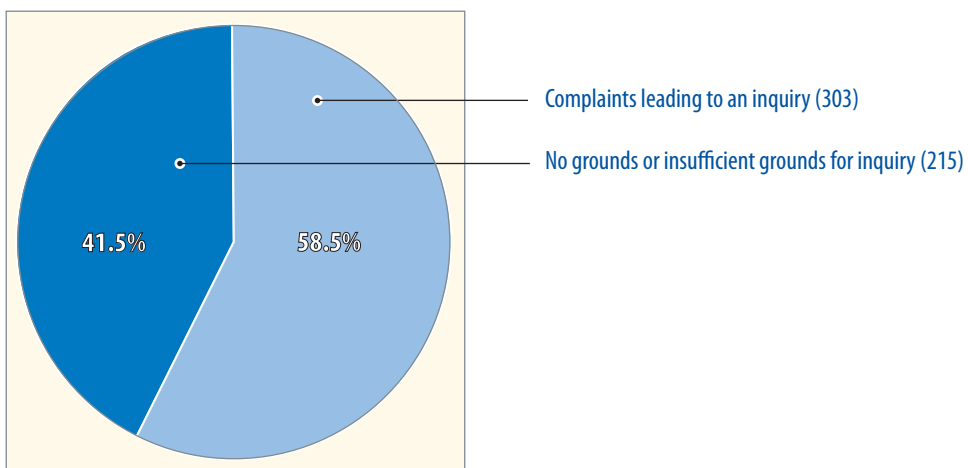


### Outside the mandate

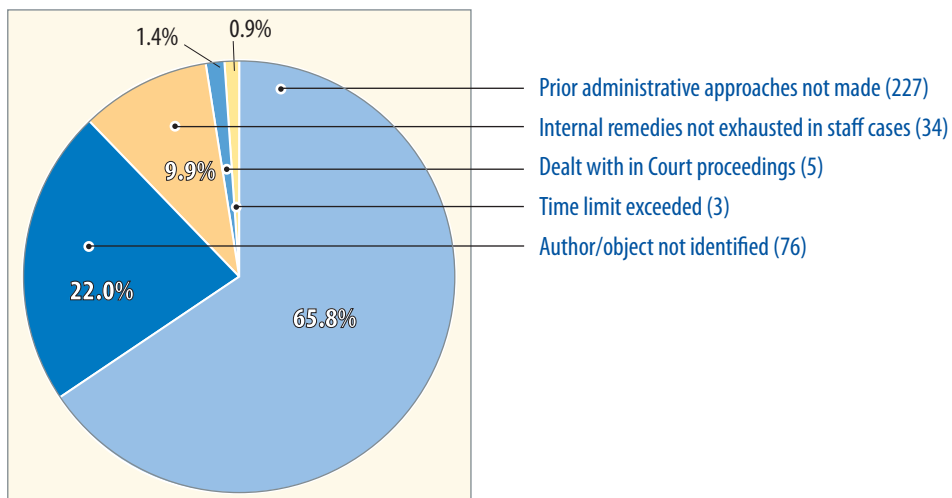


### Inside the mandate

#### Admissible Complaints



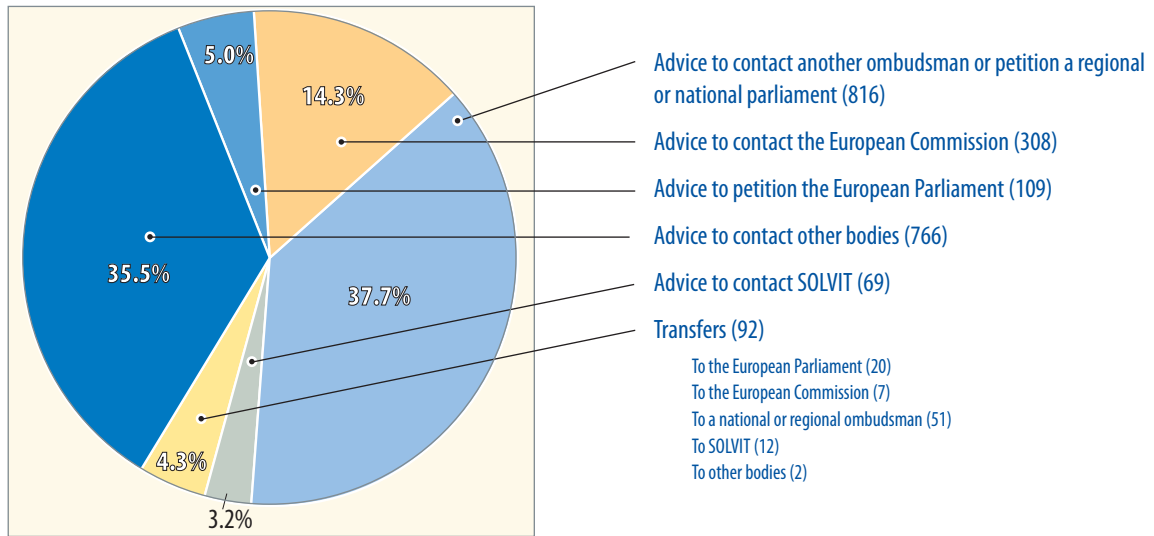
#### Inadmissible Complaints





## 2 TRANSFERS AND ADVICE

(In some cases, more than one advice has been given)

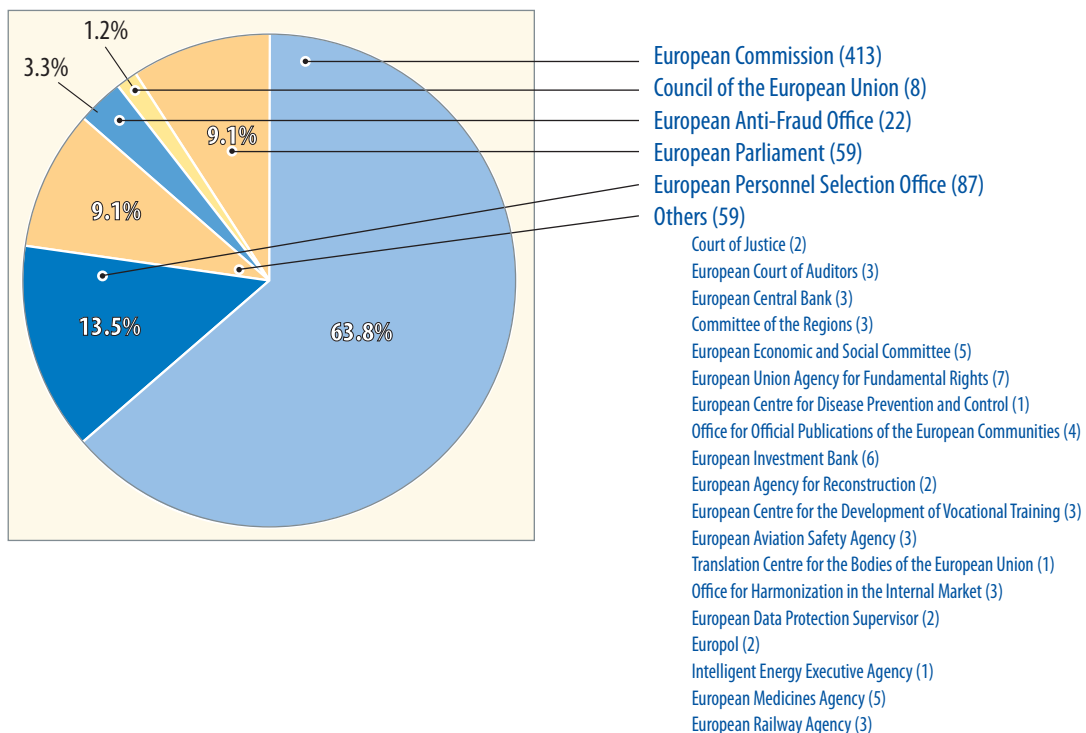


## 3 INQUIRIES DEALT WITH IN 2007 ..... 641

In 2007, the European Ombudsman dealt with 641 inquiries, 309 inquiries initiated in 2007 (of which six own-initiatives) and 332 inquiries not closed on 31.12.2006 (of which nine own-initiatives).

### 3.1 INSTITUTIONS AND BODIES SUBJECT TO INQUIRIES

(In some cases, two or more institutions or bodies are concerned by the inquiry)

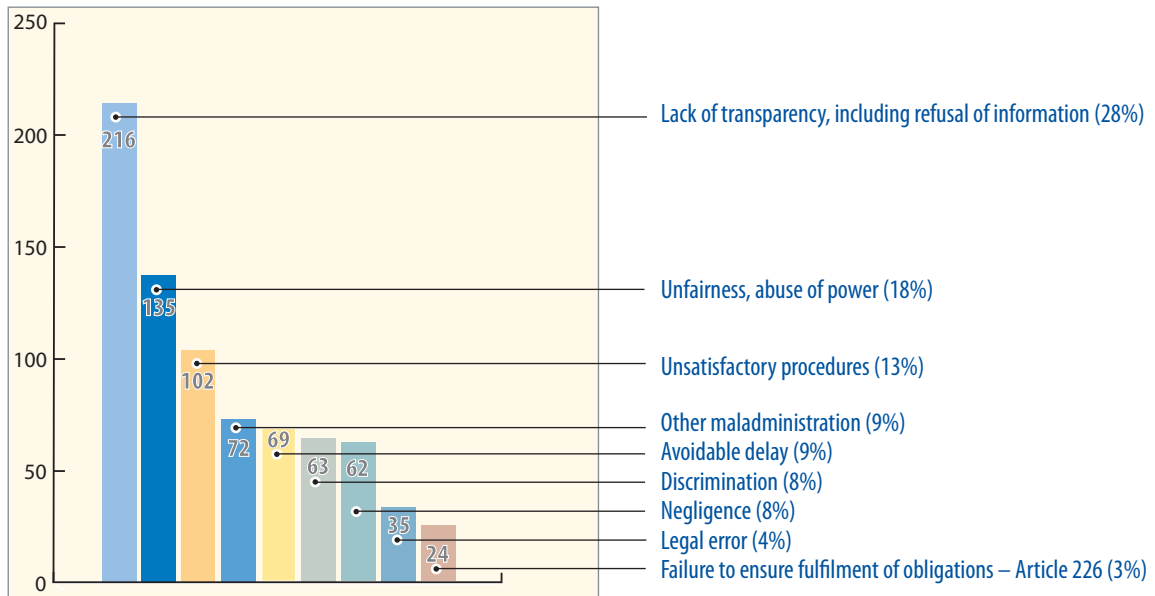






### 3.2 TYPE OF MALADMINISTRATION ALLEGED

(In some cases, two types of maladministration are alleged)

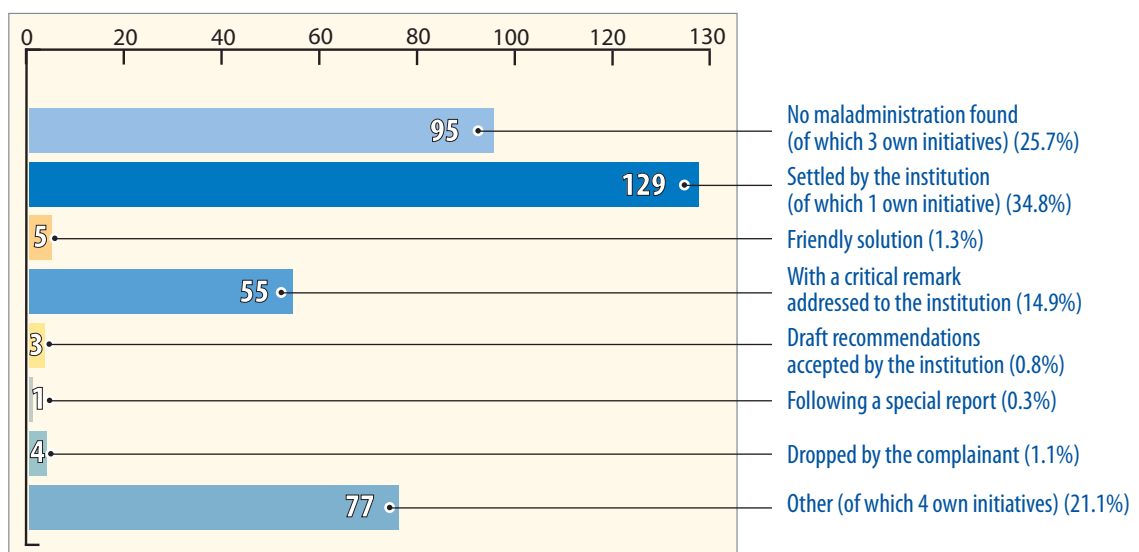


### 3.3 PROPOSALS FOR FRIENDLY SOLUTIONS, DRAFT RECOMMENDATIONS AND SPECIAL REPORTS MADE IN 2007

– Proposals for friendly solutions .....	30
– Draft recommendations .....	8
– Special report .....	1

### 3.4 INQUIRIES CLOSED ..... 348<sup>2</sup>

(Inquiries were closed on one or more of the following bases)



<sup>2</sup> Of which seven own-initiatives of the Ombudsman.



## 4 ORIGIN OF COMPLAINTS REGISTERED IN 2007

### 4.1 SOURCE OF COMPLAINTS

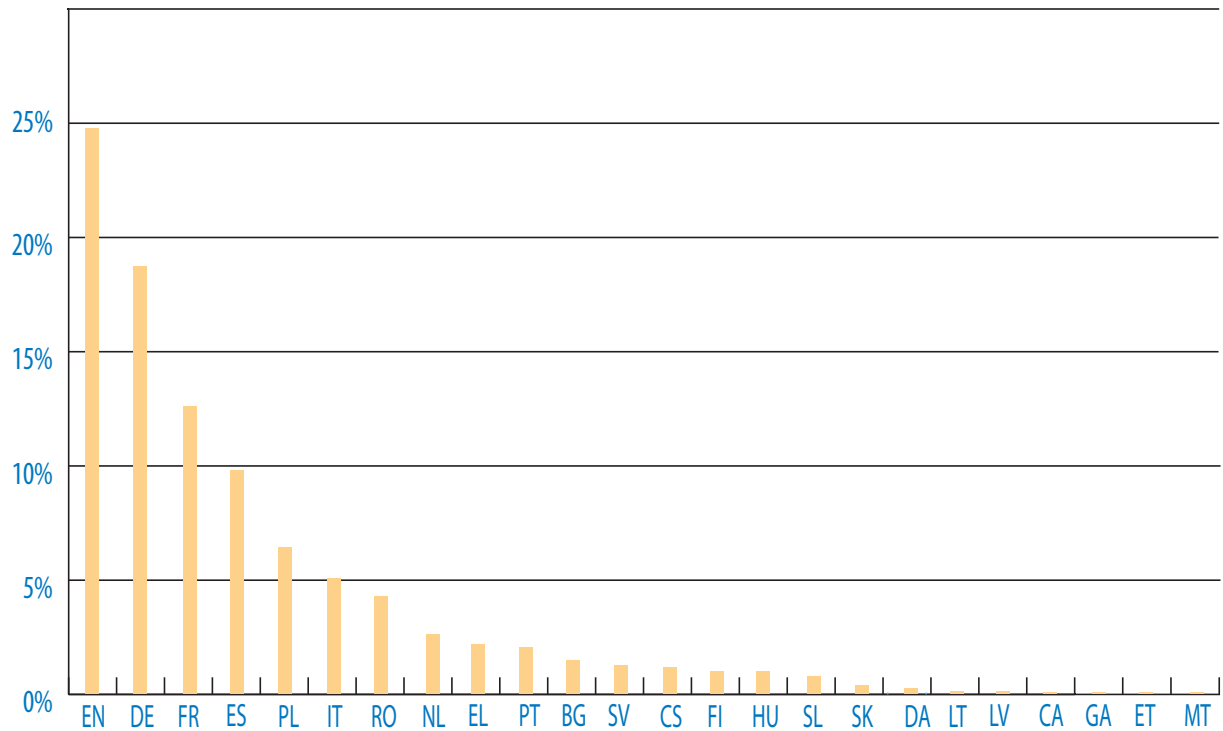


Companies and associations  
4.8% (155)



Individual citizens  
95.2% (3 056)

### 4.2 LANGUAGE DISTRIBUTION OF COMPLAINTS





## 4.3 GEOGRAPHICAL ORIGIN OF COMPLAINTS

Country	Number of Complaints	% of Complaints	% of the EU Population	Ratio <sup>1</sup>
Luxembourg	44	1.4	0.1	13.6
Malta	26	0.8	0.1	10.0
Cyprus	46	1.4	0.2	8.9
Slovenia	39	1.2	0.4	3.0
Belgium	182	5.7	2.1	2.6
Bulgaria	91	2.8	1.6	1.8
Finland	62	1.9	1.1	1.8
Ireland	43	1.3	0.9	1.5
Greece	106	3.3	2.3	1.5
Austria	75	2.3	1.7	1.4
Portugal	91	2.8	2.1	1.3
Spain	351	10.9	9.0	1.2
Romania	162	5.0	4.4	1.2
Sweden	61	1.9	1.8	1.0
Hungary	67	2.1	2.0	1.0
Germany	507	15.8	16.6	1.0
Czech Republic	59	1.8	2.1	0.9
Poland	214	6.7	7.7	0.9
Slovakia	27	0.8	1.1	0.8
The Netherlands	74	2.3	3.3	0.7
France	251	7.8	12.8	0.6
Lithuania	12	0.4	0.7	0.5
Latvia	8	0.2	0.5	0.5
Denmark	18	0.6	1.1	0.5
Italy	182	5.7	11.9	0.5
Estonia	4	0.1	0.3	0.5
United Kingdom	156	4.9	12.3	0.4
<b>Others</b>	200	6.2		
<b>Not known</b>	53	1.7		

<sup>1</sup> This figure has been calculated by dividing the percentage of complaints by the percentage of population. Where it is greater than 1, this indicates that the country in question submits more complaints to the Ombudsman than might be expected given the size of its population. All percentages in the above table have been rounded to one decimal place.

## HOW TO CONTACT THE EUROPEAN OMBUDSMAN

### BY MAIL

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### WEBSITE

<http://www.ombudsman.europa.eu>







THE EUROPEAN OMBUDSMAN INVESTIGATES COMPLAINTS  
AGAINST THE INSTITUTIONS AND BODIES OF THE EUROPEAN UNION



[www.ombudsman.europa.eu](http://www.ombudsman.europa.eu)