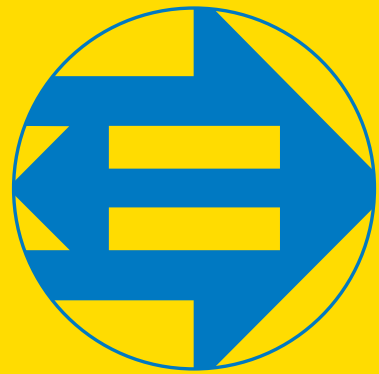




European
Ombudsman
Overview
2012

EN



Dear reader,

Welcome to the Ombudsman's *Overview 2012*, which contains highlights from the past year, as well as a look at the main challenges and opportunities facing the institution.

A record year in terms of complaints and inquiries

The year 2012 was a particularly busy one for the Ombudsman and his staff, with a record number of inquiries opened and closed. The 465 inquiries opened constitute an 18% increase compared with 2011 (396). The number of inquiries closed increased by 23% compared with the previous year and reached a new peak of 390. More generally, as in 2011, the Ombudsman directly helped over 22 000 individuals by dealing with their complaints (2 442 cases), replying to questions (1 211), or offering advice through the interactive guide on our website (19 281). We further broadened our efforts to reach out to citizens by publishing a video clip that is available on both our website and YouTube channel.



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Thanks to the helpful advice provided through the interactive guide, the number of complaints falling outside the European Ombudsman's mandate is, at 1 720, the lowest in ten years. In 2012, we also streamlined and speeded up our procedure for handling these complaints. We continued to complete most inquiries (69%) within one year, improving slightly on our result in 2011 (66%).

The most common advice provided by my Office, notably through the interactive guide, is to contact a member of the European Network of Ombudsmen. Almost 60% of complaints processed in 2012 fell within the competence of a member of the Network. To further cooperation among Network members, we jointly organised seminars in Brussels and Strasbourg for, respectively, Regional Ombudsmen and liaison officers from National Ombudsman Offices.

A positive year in terms of cooperation with the EU administration

For the first time, in 2012, we can give a concrete answer to the question "How successful is the European Ombudsman?" Two publications produced last year – the follow-up study to critical and further remarks and a new compliance report – concluded that in four out of every five cases, the EU institutions comply with the Ombudsman's suggestions. While this result is impressive, I will continue in my endeavour to foster the highest standards of behaviour in the institutions, as set out in the Ombudsman's mission statement. With this objective in mind, the Ombudsman published

The European Ombudsman investigates complaints about maladministration in the EU institutions, bodies, offices, and agencies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible, and free means of solving problems with the EU administration. For further information in all the official EU languages, please visit the website (<http://www.ombudsman.europa.eu>), where you will also find this *Overview*, the cases mentioned in this publication, as well as the full *Annual Report 2012* – available in English from May 2013 and in all the other official languages from July 2013.



five public service principles that should guide the conduct of EU civil servants. I drew attention to these principles when I met the Commission's Directors-General in March, particularly underlining that, at a time when the EU is facing a severe crisis, the principles can help build greater trust between citizens and the institutions. Our biggest stakeholder event to date gave citizens an opportunity to discuss with the Presidents of the Parliament, the Commission, and the Council of the EU, the topic "Europe in crisis: the challenge of winning citizens' trust", again reflecting a guiding principle in the Ombudsman's mission statement that is to build trust through dialogue between citizens and the Union.

A rewarding year for citizens' rights

With an eye to enhancing relations between the EU institutions and citizens, the Ombudsman, along with the Research Network on EU Administrative Law (ReNEUAL), explored, at a conference in March held in Brussels, the possibility of adopting a general set of rules of administrative procedure for EU institutions, bodies, offices, and agencies. In order to improve our work for citizens, the Ombudsman participated in a project run by the European Foundation for Quality Management (EFQM). The outcome, as well as the process itself, were extremely rewarding. Thanks to the successful completion of the three improvement priorities identified, the Ombudsman is now recognised by EFQM as "Committed to Excellence".

The Ombudsman's responsibility for the rights of disabled persons was recognised in the Council decision endorsing the EU-level framework under the UN Convention on the Rights of Persons with Disabilities. Alongside four other bodies, including Parliament's Committee on Petitions, the Ombudsman will work to protect, promote, and monitor implementation of the Convention. It is clear that we need to be ambitious, proactive, and far-reaching in our efforts to ensure that the EU is at the forefront when it comes to ensuring respect for the rights of persons with disabilities, as provided for both in the Convention and the Charter of Fundamental Rights.

All of the aforementioned activities mean that, by the end of the year 2012, we are in a good position as regards the promises we made in the Ombudsman's strategy for the 2009-2014 mandate. As one of the overarching aims of the strategy is to ensure that European citizens enjoy their rights fully, we look forward to working in 2013, the European Year of Citizens, with renewed energy and enthusiasm towards this goal.

Strasbourg, 31 January 2013

P. Nikiforos Diamandouros

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Publications Office

Star cases from 2012

Ten star cases closed in 2012 illustrate best practice. Six of the cases concern transparency, while a further case pertains to the Charter of Fundamental Rights. Issues of recruitment, respect for citizens, and compensation are also included.

Transparency

In case **2016/2011/AN**, the **European Central Bank** (ECB) responded positively to the Ombudsman's suggestion that it provide the complainant with information he wanted about the contents of a letter from the ECB to the Spanish government. In closing the case, the Ombudsman encouraged the ECB to continue to view transparency not only as a legal obligation, but also as an opportunity to enhance its legitimacy in the eyes of citizens.

The Ombudsman welcomed the combination of general and institutional measures proposed in the context of own-initiative inquiry **OI/3/2011/KM**. This concerned the **Council's** ability to reply to confirmatory applications within the time limits foreseen in Regulation 1049/2001 on public access to documents.

The **Commission** also outlined a number of measures to improve compliance with Regulation 1049/2001, after the Ombudsman asked it to explain what steps it would take in response to his inquiry in case **849/2010/KM**. It also granted access to the relevant documents and apologised for the delay. In case **1161/2010/BEH**, the **Commission** fully disclosed the documents requested by the complainant and acknowledged that the delay incurred was unjustifiable.

The **European Medicines Agency** (EMA) agreed, in case **2493/2008/FOR**, to provide public access to adverse reaction reports relating to an anti-acne drug. EMA had a similar star case in 2011.

In case **808/2011/MHZ**, the Ombudsman praised the **European Council** for having apologised to a citizen who turned to it to voice his concern about the use of service cars. The Ombudsman found that the Council's sincere apology constitutes the best example of the EU administration showing respect for its citizens.

Charter of Fundamental Rights

In response to own-initiative inquiry **OI/3/2008/FOR**, the **Commission** committed itself to reforming its Early Warning System (EWS) – a computerised information system which seeks to identify “threats” to the EU's financial interests and reputation. The Ombudsman insisted that the rights of persons included on the EWS, especially the fundamental rights of such persons as set out in the Charter (for instance, the right to be heard and the right of access to the file), must be protected, including during the period before the EWS is reformed.

Grants

The **Commission** agreed to reimburse over EUR 100 000 to an NGO in case **53/2010/OV**, in response to allegations that it infringed the principle of legitimate expectations by failing to respect the methodology for the reporting of costs that had been mutually agreed upon.

Courtesy

In response to case **882/2009/VL**, which followed an insulting message sent to the complainant's husband in the context of a recovery procedure concerning allegedly overpaid family allowances, the **Commission** (i) presented a letter of apology and offered to make a payment of EUR 500 as compensation for moral damage, and (ii) organised a series of internal training sessions to emphasise the importance of ethics and of a culture of service.

Recruitment

After the Ombudsman intervened in case **371/2010/(MF)AN**, the **Commission** adopted a new policy concerning the recognition of national diplomas, in order to take account of different national practices. It also declared that the complainant was eligible for the relevant posts.

How many complaints and inquiries?

The Ombudsman registered 2 442 complaints in 2012, of which 740 were within his mandate. This compares with 2 510 complaints in 2011, of which 698 were within the mandate. He opened 465 inquiries, compared to 396 in 2011, and completed 390 inquiries during the year (318 in 2011). In total, the Ombudsman handled 3 671 complaints and information requests – compared to 3 828 in 2011.

What action did the Ombudsman take?

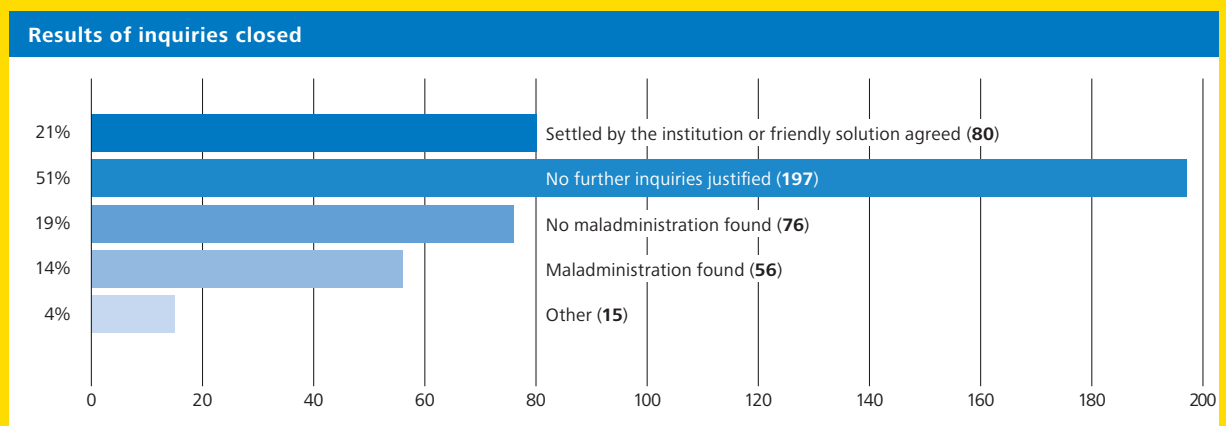
In over 75% of cases (1 854)¹, the Ombudsman was able to help the complainant by opening an inquiry, transferring the case to a competent body, or advising the complainant on where to turn. Fifty-two percent² of the cases that the Ombudsman transferred or advised on went to another member of the European Network of Ombudsmen, i.e., a national or regional ombudsman, or the European Parliament's Committee on Petitions. The Ombudsman referred a total of 11% of the cases to the Commission. In 43% of the cases, he encouraged the complainant to contact other bodies, including SOLVIT. This EU-wide network handles problems with cross-border issues that arise when public authorities in the EU Member States incorrectly apply EU law.

Source of complaints in inquiries closed in 2012

Companies, associations, and other legal entities	14.7% (56)
Individual citizens	85.3% (324)

Outcome of inquiries

In 89 cases closed in 2012, a positive outcome was achieved when the institution concerned settled the matter, agreed to a friendly solution, or accepted a draft recommendation. No maladministration was found in 76 cases, while maladministration was found in 56. The institution accepted a draft recommendation in part or in full in nine of these (compared to 13 in 2011), while 47 cases were closed with critical remarks. In 30 cases, the Ombudsman made further remarks to help improve future performance. He submitted one special report to the European Parliament during the year.



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

Note ii: In one case where the Ombudsman found maladministration, he closed the inquiry with both a critical remark and a draft recommendation, which the institution fully accepted.

1. This figure includes 95 complaints registered towards the end of 2011 and processed in 2012. It does not include 18 complaints registered towards the end of 2012 that were still being processed at the end of the year to determine what action to take.

2. These percentages total more than 100% because, in some cases, the Ombudsman gave the complainant more than one type of advice.

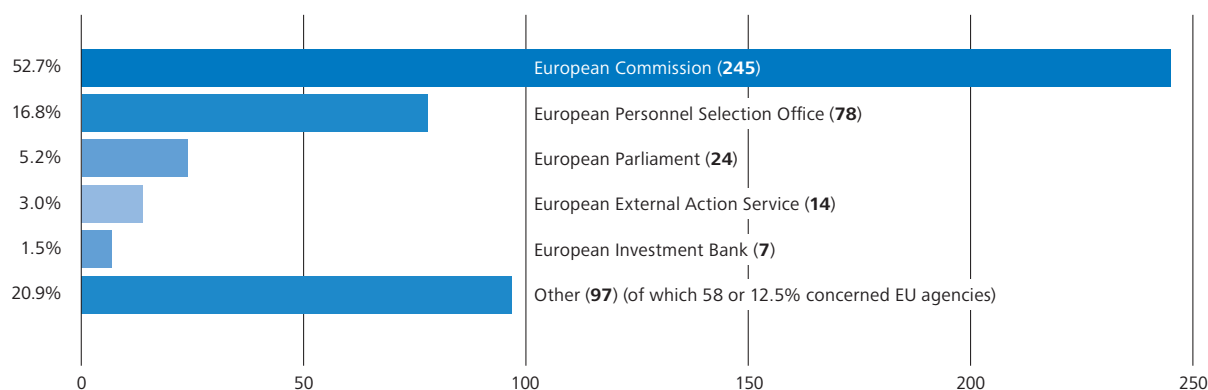
Inquiries concerning which institutions, bodies, offices, or agencies?

Most inquiries opened in 2012 concerned the Commission, i.e., 245 cases (52.7%). The comparable figure for 2011 was 231 cases (58%). Since the Commission is the main Union institution that makes decisions that have a direct impact on citizens, it is normal that it should be the principal subject of complaints. Next came the European Personnel Selection Office with 78 inquiries (42 in 2011), followed by the European Parliament with 24 inquiries (16 in 2011).

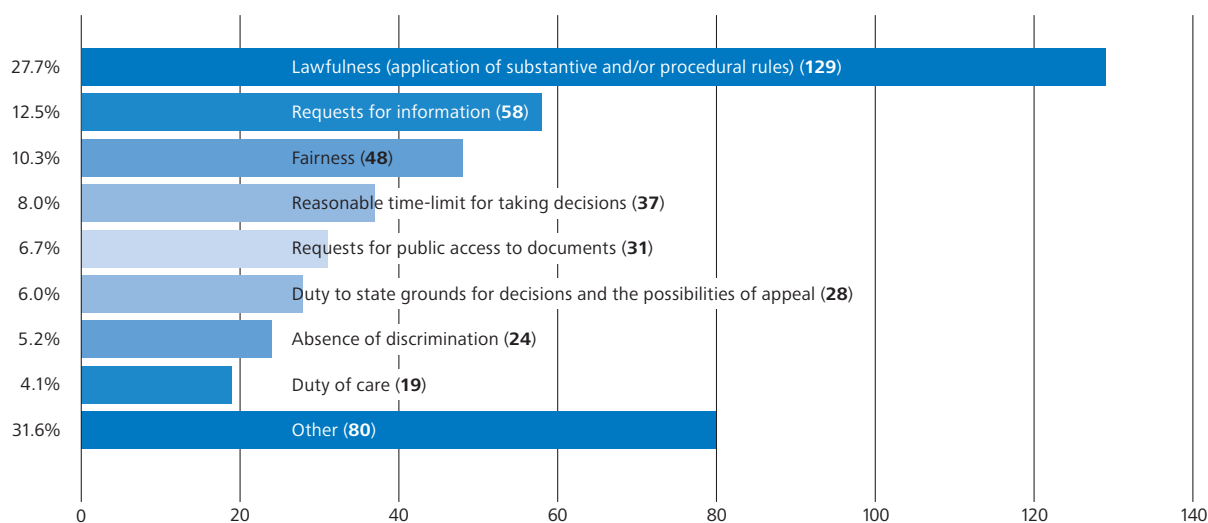
Inquiries concerning what type of maladministration?

Maladministration occurs when an institution fails to act in accordance with the law, fails to respect the principles of good administration, or when it violates fundamental rights. The main types of alleged maladministration that the Ombudsman investigated in 2012 concerned lawfulness, followed by requests for information, fairness, and reasonable time-limit for taking decisions.

Institutions and bodies subject to inquiry



Alleged maladministration concerning:



Note: In some cases, the same inquiry examined two or more alleged types of maladministration. The above percentages therefore total more than 100%.

Complaints from whom?

The map below outlines the national origin of the complaints that the Ombudsman registered in 2012. As the complaint ratio shows, the number of complaints originating in a Member State is not necessarily directly proportional to the size of its population.

Country	Number of complaints	Ratio
Luxembourg	39	16.0
Cyprus	30	6.1
Malta	14	5.7
Belgium	182	3.5
Slovenia	31	3.2
Ireland	50	2.3
Bulgaria	66	1.7
Hungary	76	1.6
Spain	340	1.5
Portugal	77	1.5
Lithuania	23	1.3
Greece	74	1.3
Latvia	16	1.3
Slovakia	34	1.3
Denmark	34	1.3
Poland	235	1.2
Austria	45	1.1
Estonia	7	1.0
Finland	25	0.9
Sweden	38	0.9
Czech Republic	42	0.8
Germany	273	0.7
The Netherlands	51	0.6
Romania	58	0.5
United Kingdom	162	0.5
France	138	0.4
Italy	118	0.4
Other countries	138	
Not known	26	

Note: The complaint ratio is the result of the percentage of total complaints from each Member State divided by its percentage of the total EU population. The ratio is greater than 1 if more complaints originated in the country in question than might be expected, given the size of its population. Percentages have been rounded to one decimal place.

Ratio (% complaints / % population)



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