

## The European Ombudsman's activities in 2013

In January 2015, the European Parliament is set to discuss and adopt a resolution on the European Ombudsman's activities in the year 2013 based on the annual report presented on 23 September 2014. The report covers a year of transition for the Ombudsman, with the recently re-elected Emily O'Reilly taking over from Nikiforos Dimandouros mid-way through 2013.

### The functions of the European Ombudsman

The European Ombudsman is [elected](#) by the EP for the duration of the parliamentary term, and plays an important role, set out in [Article 228 TFEU](#), as independent guardian of accountability and transparency, ensuring the EU institutions adhere to the principle of good administration, and respect EU citizens' rights following the [EU Charter of Fundamental Rights](#). The Ombudsman deals with citizens', NGOs' and businesses' [complaints](#) about maladministration by EU institutions and bodies through inquiries and reports, with recommendations to the respective institution and the European Parliament (EP), and also conducts [own-initiative inquiries](#). In addition, the Ombudsman can also request an EP decision calling on the respective institution to solve the problem. In terms of resolving conflicts, the Ombudsman can mediate between parties by proposing an amicable solution or make critical remarks on the case when such a solution is no longer possible, however, the Ombudsman cannot intervene once any legal proceedings have been started. While the Ombudsman has no binding powers, the office's functional independence has had a strong twofold impact – it has contributed to broad adherence by EU institutions and bodies to the principle of good administration, while they have complied with the Ombudsman's recommendations [in 80% of cases](#) – and has played an important part in setting good administration standards.

The current Ombudsman is [Emily O'Reilly](#), former Irish Ombudsman, who was elected to the post in July 2013 to see out the remainder of Nikiforos Diamandouros's term, following his early [retirement](#) after two terms in 2013. She was re-elected at the December plenary session to serve for this parliamentary term.

### The 2013 Ombudsman's report

For the first time the report consists of two distinct parts – the [Ombudsman's annual report](#), and a [Report on good administration in practice](#) which covers individual decisions in detail.

The [Ombudsman's annual report](#) provides figures on the number and type of citizens' requests (a total of 23 245 cases), how they were dealt with, their national origin, target and outcome. Most requests were successfully answered via the [interactive guide](#) on the Ombudsman's website or a reply to a request for information. The majority of complaints (2 420 cases) were lodged by citizens (77%) and originated [mostly](#) in Spain, Germany, Poland and Belgium. The Ombudsman conducted 341 inquiries based on complaints and initiated nine own-initiative inquiries not based on specific complaints. These inquiries targeted the European Commission as well as EU agencies and other institutions. In most cases the result was the closure of the case, [settlement by the institution](#) or through [a friendly solution](#). In the 50 cases of 'bad' administration, the inquiries resulted mostly in [critical remarks](#) addressed to the institution concerned or in full/partial acceptance of the Ombudsman's draft recommendations. Furthermore, the report lists the main types of complaints and the Ombudsman's specific actions in dealing with them. These involved ensuring **transparency** and access to documents under the Charter of Fundamental Rights, achieved for example by assisting NGOs to [secure](#) access to papers denied by the Commission, and by [encouraging greater transparency](#) in the EU institutions in general. In the area of **ethical issues** – such as conflicts of interest – the Ombudsman addressed the practice of public-sector staff moving to closely related jobs in the private sector ('[revolving door](#)'). She also focused on promoting [public-service principles](#) and ethical guidelines, for example by [recommending](#) to the Commission not to reappoint a controversial member of its Ad Hoc Ethical

Committee. The Ombudsman's work also involved [promoting best administrative practices](#) in European agencies, [ensuring](#) that the Commission consults civil-society stakeholders in a non-discriminatory manner. She also [dealt](#) with complaints by beneficiaries of EU-funded projects and programmes' concerning late payment disputes. In the **area of fundamental rights**, the Ombudsman addressed EU agencies' fundamental rights and obligations by [encouraging](#) Frontex to give asylum-seekers the possibility to lodge complaints. Finally, the report also includes relations with the EP, the Commission and EU agencies, along with cooperation through the [European Network of Ombudsmen](#) in an effort to ensure the prompt treatment of complaints not falling within the Ombudsman's remit.

The [Report on good administration in practice](#) focuses on the values and principles underlying inquiries concluded by the Ombudsman in 2013 and on wider recommendations in principle. It is based on a complex approach, not only involving issues of breach of law, and proposes improvements in transparency by addressing recommendations in three main areas – **the right of access to documents under Regulation 1049/2001, institutional and policy issues**, and the **practical application of the principle of good administration**.

With regard to the right to access to documents, the Ombudsman favours minimising limitations to the right in question and recommends that EU institutions examine documents by category, their effect on protecting interests and the presence of an overriding public interest to determine whether limiting public access is justified. Institutions are urged to react flexibly in protecting the public interest in certain sensitive cases – such as inspections and investigations – and to strike the right balance between transparency and personal data protection.

As far as institutional and policy issues are concerned, in this area the Ombudsman explains her office's role in checking the correct application of procedures in Commission proposals, while leaving the assessment of political questions to the Commission. She also stresses that civil society needs to be broadly and inclusively involved at an early stage and highlights her work in investigating the transparency of the selection and operation of Commission expert groups.

Concerning the practical application of the principle of good administration, the Ombudsman's recommendations concern EU institutions' relations with the public, such as complainants' right to present their case and be informed of investigations against them (e.g. OLAF investigations), the need for courtesy in dealing with citizens and for institutions' impartial and objective treatment of whistleblowers' warnings. In a similar vein the Ombudsman encourages transparency towards stakeholders, and good administration in contracts and grants management by the Commission. In addition, in respect of the Commission's role as guardian of the treaties, she urges it to clearly justify decisions on the possible opening of infringement procedures based on the right of citizens to complain to the Ombudsman on Member States' incorrect application of EU law.

## EP Committee on Petitions

On 9 December 2014, the EP's Committee on Petitions (PETI) Committee adopted a [Report on the annual activities of the European Ombudsman in 2013](#) which will be voted upon during the January plenary. In it the PETI committee acknowledges the legacy of Nikiforos Diamandouros and broadly welcomed the new Ombudsman's activity and her efforts to raise public awareness of the office's work, not least through a more user-friendly two-part format for the report, and also makes several specific recommendations. PETI suggests putting greater focus on social media as a channel for communication of the Ombudsman's work, in an effort to strengthen public awareness of the Ombudsman's activities, while recalling the needs of those not connected to the Internet. PETI also urges the Ombudsman to examine the significant rise in inquiries based on complaints against the European Commission and calls on the new Commission to take rapid action to improve its performance. In addition, it also calls upon the Ombudsman to address concerns related to the increase in complaints against EU agencies, monitor developments in these and indicate the reasons why they were lodged. In addition the PETI committee suggests that the Ombudsman deepen her relations and cooperation with the various networks such as the European Network of Ombudsmen and the framework under the United Nations Convention on the Rights of Persons with Disabilities.

*More information on the Ombudsman's election in December can be found [here](#).*