

THE EUROPEAN OMBUDSMAN

The European Ombudsman conducts inquiries into cases of maladministration by European Union institutions, bodies, offices and agencies, acting on their own initiative or on the basis of complaints from EU citizens, or any natural or legal person residing or having their registered office in a Member State. The Ombudsman is elected by the European Parliament for the duration of the parliamentary term.

LEGAL BASIS

Articles 20, 24 and 228 of the Treaty on the Functioning of the European Union (TFEU) and Article 43 of the Charter of Fundamental Rights of the European Union.

The European Ombudsman's status and duties were spelt out by the European Parliament in a decision of 9 March 1994 taken after consulting the European Commission and with the approval of the Council of the European Union^[1]. The European Ombudsman then adopted provisions implementing that decision. The decision was repealed and substituted by a European Parliament Regulation of 24 June 2021, following the same procedure^[2]. The procedures for electing and dismissing the European Ombudsman are laid down in Rules 231 to 233 of the European Parliament's Rules of Procedure.

OBJECTIVES

Established by the Maastricht Treaty (1992), the European Ombudsman is a body that aims to:

- Improve the protection of citizens or any natural or legal person residing or having their registered office in a Member State in connection with cases of maladministration by European Union institutions, bodies, offices or agencies; and
- Thereby enhance openness and democratic accountability in the decision-making and administration of the EU's institutions.

A. Status

1. Election

a. Requirements

The European Ombudsman must be chosen from persons who:

- Are citizens of the EU;
- Have full civil and political rights;
- Offer every guarantee of independence;

[1] OJ L 113, 4.5.1994, p. 15 – amended by the European Parliament decisions of 14 March 2002 (OJ L 92, 9.4.2002, p. 13) and of 18 June 2008 (OJ L 189, 17.7.2008, p. 25).

[2] [Regulation \(EU, Euratom\) 2021/1163](#) of the European Parliament of 24 June 2021 laying down the regulations and general conditions governing the performance of the Ombudsman's duties (Statute of the European Ombudsman) and repealing Decision 94/262/ECSC, EC, Euratom (OJ L 253, 16.7.2021, p. 1).

- Meet the conditions required for the exercise of the highest judicial office in their country or have the acknowledged competence and qualifications to undertake the duties of the European Ombudsman;
- Have not been members of national governments or members of the European Parliament, the European Council or the European Commission within the two years preceding the date of publication of the call for nominations.

b. Procedure

At the start of each parliamentary term or in the event of the death, resignation or dismissal of the European Ombudsman, the President of the European Parliament calls for nominations for the office of European Ombudsman and sets a time limit for their submission. Nominations must have the support of at least 40 Members of the European Parliament from at least two Member States. Nominations are submitted to the European Parliament's Committee on Petitions, which considers their admissibility. The committee may ask to hear the nominees. A list of admissible candidates is then put to the vote in the European Parliament. The European Ombudsman is elected by a majority of the votes cast.

2. Term of office

a. Length

The European Ombudsman is elected by the European Parliament after each European election for the duration of its legislature. They may be re-elected.

b. Obligations

During the term of office, the European Ombudsman must:

- Be completely independent and impartial in the exercise of their duties;
- Not seek or take instructions from any government, institution, body, office or entity;
- Refrain from any act incompatible with their duties;
- Not engage in any other political or administrative duties, or any other occupation, whether gainful or not.

3. Dismissal

The European Ombudsman may be dismissed by the Court of Justice of the European Union (CJEU) at the request of the European Parliament if they no longer fulfil the conditions required for the exercise of their duties or are guilty of serious misconduct.

B. Role

1. Scope

The European Ombudsman deals with cases of maladministration by European Union institutions, bodies, offices or agencies.

a. The European Ombudsman may find maladministration if an institution fails to respect:

- Fundamental rights;
- Legal rules or principles;

- The principles of good administration.

The European Ombudsman's inquiries mainly concern:

- Transparency in decision-making and in lobbying/accountability;
- Access to documents;
- Culture of service;
- Respect for procedural rights;
- Proper use of discretion;
- Respect for fundamental rights;
- Recruitment;
- Good management of EU personnel issues and appointments;
- Sound financial management;
- Ethics;
- Public participation in EU decision-making.

Around one third of the inquiries the European Ombudsman carries out every year concern a lack of or refusal to provide information.

b. Exceptions

The following matters cannot be investigated:

- Action by the CJEU acting in its judicial role. The European Ombudsman's inquiries concerning the CJEU relate only to its non-judicial activities, for example tenders, contracts and staff cases;
- Complaints against local, regional or national authorities, even when these complaints refer to matters connected to the European Union;
- Actions by national courts or ombudsmen: the European Ombudsman does not serve as a court of appeal against decisions taken by these bodies;
- Any cases which have not previously been through the appropriate administrative procedures within the organisations concerned;
- Complaints against individual EU officials in relation to their conduct.

2. Referrals

The European Ombudsman conducts inquiries for which they find grounds either on their own initiative or on the basis of complaints submitted by EU citizens or any natural or legal person residing or having their registered office in a Member State, either directly or through a Member of the European Parliament, except where the alleged facts are or have been the subject of legal proceedings.

3. Powers of enquiry

The European Ombudsman can request information from:

- Institutions and bodies, which must comply and provide access to the files concerned, unless they are unable to do so on duly substantiated grounds of secrecy;
- Officials and other staff of said institutions and bodies, who are required to testify at the request of the European Ombudsman, although continuing to be bound by the rules to which they are subject;
- The Member States' authorities, which must comply unless such disclosure is prohibited by law or regulation. Even in such cases, however, the European Ombudsman can obtain the information on the understanding that it will not be passed on.

If the European Ombudsman does not obtain the assistance requested, they inform the European Parliament, which takes appropriate action. The European Ombudsman can also cooperate with their counterparts in the Member States, subject to the provisions of the national law concerned. If the information appears to relate to a matter of criminal law, however, the European Ombudsman immediately notifies the competent national authorities and the European Anti-Fraud Office (OLAF). If appropriate, the European Ombudsman may also inform the EU institution to which the official or member of staff is answerable.

4. Outcome of inquiries

Wherever possible, the European Ombudsman acts in concert with the institution or body concerned to find a solution satisfactory to the complainant. Where the European Ombudsman establishes that maladministration has occurred, their recommendations are referred to the institution or body concerned, which then has three months in which to inform the European Ombudsman of its views. If the institution does not accept the proposed recommendations, the European Ombudsman can draw up a special report for submission to the European Parliament. The European Parliament may in turn draw up a report on the special report submitted by the European Ombudsman. Finally, the European Ombudsman informs the complainant of the result of the inquiry, the opinion delivered by the institution or body concerned and any personal recommendations.

C. Administration

The European Ombudsman is assisted by a secretariat, whose staff are subject to the rules of the European civil service. The European Ombudsman appoints the head of the secretariat.

D. Activities

The first European Ombudsman, Jacob Söderman, served two terms of office, from July 1995 to 31 March 2003. During his term, the Code of Good Administrative Behaviour was approved by the European Parliament (in 2001). This is a procedural code which takes account of the principles of EU administrative law contained in the case law of the CJEU and draws inspiration from national laws. The European Ombudsman uses this code when investigating whether there has been maladministration, drawing on its provisions in their inquiries. In addition, the code

acts as a guide and a resource for EU officials, encouraging the highest standards of administration.

Nikiforos Diamandouros was European Ombudsman from April 2003 to 14 March 2013, when he resigned with effect from 1 October 2013. On 11 July 2006, he submitted a proposal on adjustments to the European Ombudsman's Statute, which was supported by the European Parliament's Committee on Petitions, by the European Parliament and by the Council of the European Union. The statute was amended to strengthen and clarify the role of the European Ombudsman, for instance in terms of access to documents and notification of information to OLAF when it might fall within its remit.

The former Irish Ombudsman, Emily O'Reilly, following her election by the European Parliament at the July 2013 part-session, took up office as European Ombudsman on 1 October 2013 and has been reconfirmed twice, following the 2014 and 2019 European elections. She has enhanced the visibility of the European Ombudsman's role by focusing on the most relevant issues for EU citizens, by ensuring that the EU delivers the highest standards of administration, transparency and ethics. She has promoted transparency in the EU decision-making process and notably in trilogues and in the Council of the European Union, as well as in relation to lobbying, expert groups, conflicts of interest, revolving doors, EU agencies (such as the European Border and Coast Guard Agency, Frontex), and international negotiations (such as the Transatlantic Trade and Investment Partnership). She has worked to improve the rules on whistleblowing, on the European Citizens' Initiative and on disabilities. She has also examined instances of maladministration in relation to the appointment of a former European Commission Secretary-General.

The European Ombudsman also coordinates the European Network of Ombudsmen and since 2017 has handed out the 'Award for Good Administration' once every two years.

ROLE OF THE EUROPEAN PARLIAMENT

Although entirely independent in the exercise of their duties, the European Ombudsman is a parliamentary ombudsman. The European Ombudsman has very close relations with the European Parliament, which has sole power to elect and ask the Court of Justice to dismiss them, lays down rules governing the exercise of their duties, assists with investigations and receives their reports. The European Parliament's Committee on Petitions, on the basis of the Rules of Procedure (Rule 232), draws up a report every year on the annual report on the activities of the European Ombudsman. In these reports, it has repeatedly expressed full support for the work of the European Ombudsman and emphasised that the EU institutions should fully cooperate with it in order to increase the EU's transparency and accountability, notably by implementing its recommendations. On 12 February 2019, the European Parliament adopted a resolution on a draft regulation proposing an updated statute of the European Ombudsman, with the aim of strengthening its independence and powers. On 24 June 2021 the European Parliament adopted the [Regulation laying down the new Statute of the European Ombudsman](#), which codifies many of the office working practices, such as the power to launch own-initiative inquiries.

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