



Annual Report 2021



European
Ombudsman

Annual Report 2021



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Introduction



Emily O'Reilly, European Ombudsman.

2021 continued to be overshadowed by the pandemic. In the EU, we were very fortunate to experience the major roll-out of vaccines against COVID-19, but public debate around vaccine uptake and how to contain the virus brought the issue of trust in public administrations sharply into focus.

My Office continued to implement our '[Towards 2024 Strategy](#)' through efficient complaint handling and the launch of strategic inquiries into areas of general public importance, including on the impact of the pandemic on the work of the institutions.

This year, I put a renewed focus on how the EU institutions manage the movement of staff from the EU public administration into the private sector, the so-called 'revolving doors' phenomenon. Without adequate oversight of the risks involved, the effects can be corrosive and damage public trust. This should not be underestimated.

I opened a broad inquiry into how the Commission manages revolving doors, requesting details of decisions it had taken related to staff moving to the private sector. The inquiry covered economically important departments as well as commissioner cabinets and the Legal Service. The aim is to assess the decision-making process and where this could be improved.

Separately, but linked to the broader issue, I found maladministration in how the European Defence Agency handled the move by its former chief executive to Airbus and I opened an inquiry into how the European Investment Bank (EIB) dealt with an application by one of its vice-presidents to move to Iberdrola, an energy company.

I made suggestions to Frontex on how to improve the accountability of its work and wrote to the EIB with proposals to make public more information about the environmental implications of the projects it finances.

As part of our general monitoring of how institutions approach important issues, I wrote to the Commission and the European Data Protection Supervisor to ask how rules on artificial intelligence will work in practice – an issue of concern for the European Network of Ombudsmen with whom the Office held regular seminars throughout the year. I also asked for details on how the Commission ensures respect for human rights in the international trade agreements it negotiates.

With this year being the 20th anniversary of the EU's 'Transparency Law' (Regulation 1049/2001 on public access to documents), I hosted a public conference on whether the law needs to be modernised. Recurring issues, such as delays in how the institutions handle requests for access or people being dissatisfied with

the reasoning given for refusing access, coupled with the significant technological changes in the past twenty years, mean it is high time to consider whether the rules are meeting the public's needs in this area.

It was my pleasure to hold the third edition of the Award for Good Administration, which saw the overall prize awarded jointly to staff in the Commission's Directorate-General for Civil Protection and Humanitarian Aid and the European External Action Service for their efforts to repatriate people stranded abroad due to the pandemic. Once again, the award was a reminder of the excellent work being carried out by the EU administration. I hope this will inspire others to submit projects in the future.

This annual report carries the new logo of the European Ombudsman, designed further to embed a contemporary public image and to reinforce an understanding of our role in the EU administration. The presence of the EU flag makes it clear that we are part of the collection of EU institutions and bodies, while the three logo elements represent the core aims of our mission: accountability, transparency and trust.

Finally, I thank the European Parliament for its overwhelming approval of a new Statute that maintains the Office's powers, strengthens the legal basis of the Ombudsman and introduces safeguards that further guarantee the Office's independence.

I see the new Statute as a validation of our Office's work in keeping EU institutions at the forefront of excellent public administration.



Emily O'Reilly

1

2021 at a glance

01 January

Inquiry opened into Commission's refusal to give public access to documents concerning the purchase of vaccines against COVID-19

02 February

Ombudsman publishes proposals to improve the transparency of the work of the ECDC

03 March

Inquiry opened into how the European Border and Coast Guard Agency complies with its fundamental rights obligations

04 April

Ombudsman welcomes constructive Commission response to BlackRock inquiry

05 May

Inquiry opened into how the Commission manages revolving doors

06 June

Award for Good Administration 2021

07 July

EU institutions asked what measures they have in place for documenting work-related text messages

08 August

Inquiry opened into European Medicines Agency's refusal to grant access to documents relating to the manufacturing of mRNA vaccines against COVID-19

09 September

Ombudsman addresses Global Public Affairs Forum on 'Ethical lobbying in a post-COVID world'

10 October

EBA agrees to publish details of votes by its board of supervisors

11 November

Conference – 'Access to EU documents: what next?'

12 December

Inquiry opened into how the Commission carried out a public consultation concerning the Sustainable Corporate Governance Initiative

2

Key topics

The Ombudsman helps people, businesses and organisations as they engage with the EU institutions, bodies, offices and agencies. Problems can range from lack of transparency in decision making, to refusal of access to documents, to violations of fundamental rights, and contractual issues. The various sections give an overview of the key cases related to a particular area.

2.1. 'Revolving doors'

European Ombudsman

Dealing with #revolvingdoors is a major challenge: we have inspected 100 personnel files and now ask @EU_Commission specific questions on how it manages cases of staff taking up jobs elsewhere. <http://ombudsman.europa.eu/news-document/148060>

“ Two years ago we urged the Commission to take a **more robust approach on revolving doors**, yet the strategically important department for Competition policy, for example, **continues to shed top lawyers to the private sector** with major commercial interests in competition regulation. This next step will take a deeper look at Commission practices, both generally and in relation to specific cases. ”

Emily O'Reilly

Dealing with revolving doors is a major challenge: we have inspected 100 personnel files and now ask the European Commission specific questions on how it manages cases of staff taking up jobs elsewhere.

Emily O'Reilly: “Two years ago we urged the Commission to take a more robust approach on revolving doors, yet the strategically important department for Competition policy, for example, continues to shed top lawyers to the private sector with major commercial interests in competition regulation. This next step will take a deeper look at Commission practises, both generally and in relation to specific cases.”

In 2021 the Ombudsman Office continued to focus on how the EU administration deals with so-called 'revolving doors' – where EU officials take positions in the private sector or private sector employees join the public service. The Ombudsman's overall aim is to balance the right to work with the public interest in having an EU administration that operates with the highest standards of integrity and accountability.

As part of this focus, the Ombudsman opened a broad strategic [inquiry](#) into how the Commission handles revolving door situations. The Ombudsman inquiry team inspected files related to decisions by the Commission – in 2019, 2020 and 2021 – on requests by senior – and mid-level managers for approval of either new employment or of unpaid leave in order to undertake another activity. The files covered a total of 14 directorate-generals in addition to all commissioner cabinets, the Commission's Legal Service, the Secretariat-General, the Commission's in-house think tank and the Regulatory Scrutiny Board.

After analysing the Commission's decisions, the Ombudsman asked it for further clarifications, including how often it has forbidden a staff member, foreseen under Article 16 of the Staff Regulations, from taking up an intended post and how it counters the risk that former staff members may be advising their new colleagues on issues related to their previous roles. The inquiry continued into 2022.

The Ombudsman also opened complaint-based inquiries related to 'revolving doors'. One [concerned](#) a move by a Spanish vice-president of the European Investment Bank (EIB) to a Spanish utility company that had received loans from the bank. The complainants – two Members of the European Parliament – raised concerns about risks of conflicts of interest, and the measures proposed by the EIB to mitigate these risks. The Ombudsman inspected documents concerning the EIB's decision to approve the move, and asked the EIB to reply to a number of questions.

Another revolving door inquiry concerned the European Defence Agency (EDA), which approved a move by its former chief executive to become a strategic advisor at Airbus, one of the largest actors in the European defence industry. The own-initiative inquiry [concluded](#) that the EDA should have forbidden the

European Ombudsman

We found that @EUDefenceAgency should have forbidden its former Chief Executive from becoming strategic advisor at @AirbusDefence. EDA should, in the future, block such moves if there is a clear conflict of interest. <http://ombudsman.europa.eu/news-document/144363>

We found that the European Defence Agency (EDA) should have forbidden its former Chief Executive from becoming strategic advisor at Airbus Defence. EDA should, in the future, block such moves if there is a clear conflict of interest.

move on conflict of interest grounds. The Ombudsman recommended that in future the EDA should forbid its senior staff from taking up positions where there is a clear conflict of interest. It should also set out criteria for forbidding such moves, and any applicants for


senior posts should be informed about the criteria. The EDA agreed to implement the recommendations on potentially forbidding staff from taking up certain positions and providing guidelines to staff on how it would apply such a measure.

2.2. Access to documents

European Ombudsman

We have asked several EU institutions and agencies what measures they have in place to keep records of work-related text and instant messages, with a view to drawing up a list of good practices.

<https://www.ombudsman.europa.eu/en/news-document/en/143830>




We have asked several EU institutions and agencies what measures they have in place to keep records of work-related text and instant messages, with a view to drawing up a list of good practices.

European Ombudsman

Greater transparency would inform public debate about #COVID19 vaccine negotiations.

We urge @EU_Commission to now publish, at least, the list of the seven Member States in the negotiating team.

<http://europa.eu/!PM47Bk>



Greater transparency would inform public debate about COVID-19 vaccine negotiations.

We urge the European Commission to now publish, at least, the list of the seven Member States in the negotiating team.

EU citizens have broad rights to access documents held by the EU institutions. The Ombudsman serves as a redress mechanism for those who face difficulties gaining access to these documents.

In 2021, a complainant looking for access to text messages sent by the European Commission President to the CEO of a major pharmaceutical company put the spotlight on whether the EU administration records work-related text and instant messages. The Ombudsman [asked](#) the Commission for its policy on this issue and how it searched for the text messages mentioned by the complainant.

In a separate action, the Ombudsman [asked](#) eight EU institutions and agencies (the Commission, the Council, the Parliament, the European Chemicals Agency, the European Food Safety Authority, the European Medicines Agency, Frontex and the European Central Bank) what measures they have in place for documenting work-related text and instant messages.

The Ombudsman received access to document complaints related to a number of different EU institutions and bodies.

During an [inquiry](#) on access to the details of a contract the Commission had signed with a pharmaceutical company for purchasing COVID-19 vaccines, the Commission published redacted versions of the contract and similar contracts with other pharmaceutical companies. In the context of an Ombudsman inquiry, the European Insurance and Occupational Pensions Agency (EIOPA) [agreed](#) that future minutes of its Board of Supervisors will contain information on members' votes concerning decisions on regulatory standards.

Another EU agency with important regulatory power, the European Banking Authority, [agreed](#) to release details of the votes of its Board of Supervisors concerning an investigation into a breach of EU law by national authorities with respect to the supervision of two specific banks.

Good progress was made in an [inquiry](#) into how Frontex processes public access requests via its online portal. The complainants raised issues in relation to Frontex's statement on copyright, retention periods for the documents as well as how Frontex's portal interacts with other online portals. The inquiry continued into 2022.

Unfortunately, the EU administration did not always follow the Ombudsman's proposals in access to document inquiries. The Ombudsman found

[maladministration](#) after the Commission refused to grant access to information concerning used cooking oil imports. The Commission said that, while it collects the requested data, it does not produce documents extracting the information requested by the complainant and thus refused to follow a solution proposal made by the Ombudsman. The Ombudsman also found [maladministration](#) after the Commission refused to release documents related to the purchase of 1.5 million medical masks that did not meet the required quality standards. The Ombudsman noted the strong public interest in releasing such information.

In 2018, the Ombudsman launched a Fast-Track Procedure to deal rapidly with public access to documents complaints. This procedure was [reviewed in 2021](#), and showed excellent results, including:

- A significant decrease in processing times.
- An increase in the number of access to documents complaints.
- General stakeholder satisfaction with the Fast-Track procedure.

2.3. Ethical issues

A number of Ombudsman inquiries are about ensuring that the EU institutions implement the existing rules to ensure a high standard of ethics across the EU administration.

Following a complaint by a Member of the European Parliament, the Ombudsman [examined](#) the composition of the *High Level Forum on the proposed EU Capital Markets Union* (CMU). The Commission took into account recommendations by the Forum, which gathered senior industry executives, international experts and scholars, for its CMU Action Plan. During its own assessment of applicants to be appointed to act independently, the Commission found that five had interests that compromised, or could be perceived as compromising, their capacity to act independently and in the public interest. However, it then did not follow its own rules on managing these conflicts of interest.

The Ombudsman found maladministration and proposed that any report by an expert group should also specify the types of members of the expert group.

Two civil society organisations submitted [complaints](#) concerning the participation of the Commission President and a Commission Vice-President in a video clip supporting the election campaign of a Croatian political party. The complainants questioned whether this was in line with the Commission's Code of Conduct for its members. In response to the Ombudsman's letter asking for the matter to be clarified, the Commission said it intended to draw up guidelines on how commissioners can participate in national election campaigns.

Following an Ombudsman [inquiry](#) related to travel expenses linked to an official trip to China, the European Economic and Social Committee in 2021 agreed

to improve transparency around the expenses and allowances of its members by proactively publishing such information on its website. The additional information includes details about the rules regarding reimbursement and allowances, as well as information about specific events taking place abroad and their related expenses.

In April, the Commission reacted constructively to the Ombudsman's suggestions following an inquiry into its decision to award BlackRock Investment Management a contract to carry out a study in an area of financial and regulatory interest to the company. In its [response](#), the Commission said it is considering issuing additional guidance on conflicts of interest to assist its staff dealing with public procurement procedures. The Commission also said it is reflecting on whether to propose amendments to the Financial Regulation – the EU law governing how public procurement procedures financed by the EU budget are conducted – to include the obligation for tenderers to disclose potential conflicts of interests. The Ombudsman's findings were backed by the Parliament, which asked the Commission to update the Financial Regulation to tackle possible conflicts of interest for policy-related contracts.



European Ombudsman

We welcome that [@Europarl_EN](#) - taking into account our inquiry into awarding a [#sustainablefinance](#) study to [#BlackRock](#) - asked [@EU_Commission](#) to update the EU financial law to tackle possible conflicts of interest for policy-related contracts.

http://europarl.europa.eu/doceo/document/TA-9-2021-0469_EN.pdf

36. Asks the Commission to amend Article 167(1)(c) of the Financial Regulation to include a definition of 'professional conflicting interest' so as to ensure that EU institutions can take mitigating measures in case of bidders with a financial interest in a policy-related service contract, taking into account the European Ombudsman's decision in joint inquiry 853/2020/KR on the Commission's decision to award a contract to BlackRock Investment Management to carry out a study on integrating environmental, social and governance objectives into EU banking rules; reiterates that the general conditions of the Commission's public procurement contracts for services contain standard provisions on professional conflicting interests with requirements for contractors to proactively disclose any situations that could constitute a conflict of interest; calls on the Commission to update and strengthen the Financial Regulation in order to address professional conflicting interests and to further increase the accuracy and completeness of the voluntary notification thereof by applicants submitting tenders, such as developing adequate sanctions if voluntarily notifications are not complied with, including a temporary ban from public tendering in case of severe breaches;

We welcome that the European Parliament – taking into account our inquiry into awarding a sustainable finance study to BlackRock – asked the European Commission to update the EU financial law to tackle possible conflicts of interest for policy-related contracts.

2.4. Fundamental rights

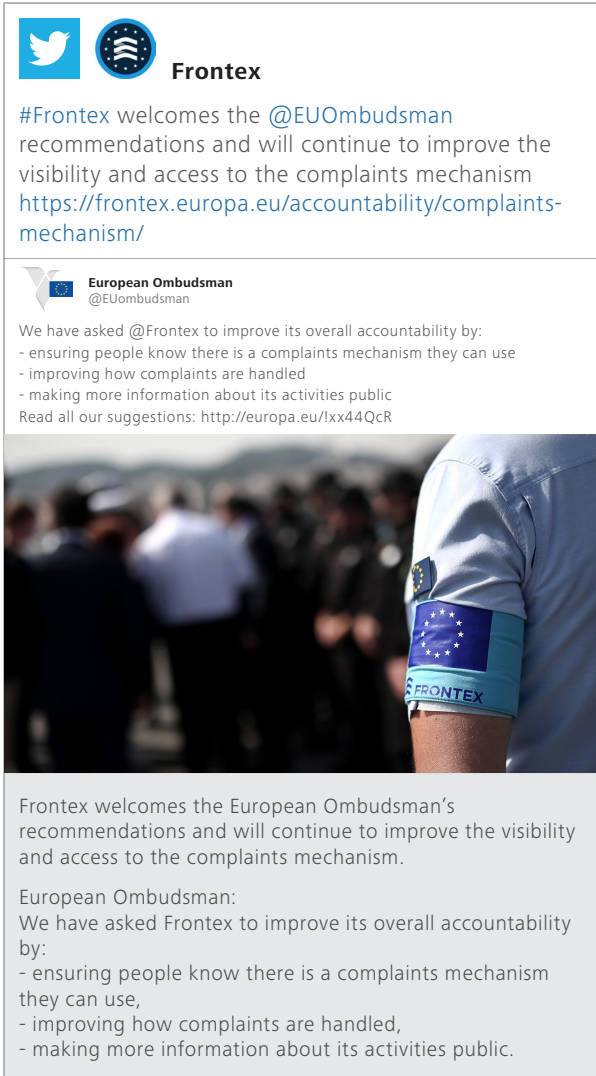
In March, the Ombudsman opened an own-initiative [inquiry](#) into how the European Border and Coast Guard Agency (Frontex) complies with its fundamental rights obligations and ensures accountability in relation to its enhanced responsibilities. These greater responsibilities started in December 2019, with the entry into force of the new Frontex Regulation 2019/1896. The inquiry aims at clarifying matters relating to the accountability of Frontex 'joint operations', activities related to 'returns' of migrants and to migration support in screening at the EU's external borders.

The inquiry follows a separate Ombudsman inquiry into Frontex's '[complaints mechanism](#)', in which the Ombudsman drew attention to delays by Frontex in implementing its new obligations concerning both the mechanism and the Fundamental Rights Officer. The Ombudsman inquiry team also identified shortcomings with the complaints mechanism that may make it more difficult for individuals to report alleged fundamental rights violations and seek redress. The Ombudsman made several practical proposals to strengthen the

independence of the complaints mechanism and encourage people to use it. These included that public information about the mechanism should specify that making complaints about alleged fundamental rights abuses will not prejudice decisions on asylum.

Another key [inquiry](#) linked to fundamental rights focused on how the Commission ensures Croatian authorities respect fundamental rights in the context of border management operations. The complainant, Amnesty International, raised doubts about whether Croatia had set up a 'monitoring mechanism' to ensure that border management operations are fully compliant with fundamental rights and EU law. During the summer, Croatia announced that it had set up such a mechanism. The Ombudsman's overall findings will be published in early 2022.

The Ombudsman opened an own-initiative [inquiry](#) to look into how the European Commission monitors that European Structural and Investment funds are used to promote the right of persons with disabilities and older



The image shows a screenshot of a tweet from Frontex and a reply from the European Ombudsman. The tweet from Frontex says: "#Frontex welcomes the @EUOmbudsman recommendations and will continue to improve the visibility and access to the complaints mechanism https://frontex.europa.eu/accountability/complaints-mechanism/". The reply from the European Ombudsman (@EUOmbudsman) says: "We have asked @Frontex to improve its overall accountability by: - ensuring people know there is a complaints mechanism they can use - improving how complaints are handled - making more information about its activities public Read all our suggestions: http://europa.eu/lxx44QcR". Below the text is a photograph of a person's arm wearing a blue and white sleeve with the Frontex logo and the European Union flag.

Frontex welcomes the European Ombudsman's recommendations and will continue to improve the visibility and access to the complaints mechanism.

European Ombudsman:
We have asked Frontex to improve its overall accountability by:

- ensuring people know there is a complaints mechanism they can use,
- improving how complaints are handled,
- making more information about its activities public.

persons to independent living. The Ombudsman asked the Commission to reply to a series of questions and then carried out a targeted consultation of stakeholders.

The Ombudsman often uses information-gathering initiatives to focus attention on an issue without opening a formal inquiry. In one such **initiative**, the Ombudsman asked the Commission to provide details on how it ensures respect for human rights in the international trade agreements the EU signs. The initiative aims to examine the use of 'human rights clauses' in these international trade agreements, as well as to look at how human rights are dealt with once trade agreements have entered into force. The request for information follows several Ombudsman inquiries in this area, including most recently an inquiry from 2020 into the Commission's failure to finalise an updated sustainability impact assessment before concluding the **EU-Mercosur trade deal**. The Ombudsman's decision, published in March, found that the Commission should have concluded an updated assessment before the trade deal was agreed. The Ombudsman asked that, in future trade negotiations, such assessments be finished ahead of the final agreement.

Prompted by the Commission's announcement in April that it intends to propose rules on artificial intelligence (AI), the Ombudsman **wrote** to both it and the European Data Protection Supervisor (EDPS) to seek further information about the potential implications of the proposed new rules. The Ombudsman inquiry team then met with representatives from the Commission to discuss questions related to how the rules on AI might operate. Issues raised included what the Commission administration currently uses AI for, and how to ensure the future rules will take the public interest into account.

2.5. Accountability in decision making

Following up on previous work on accountability in EU decision making, the Ombudsman in November opened an **inquiry** into how the Commission ensures that its interactions with tobacco lobbyists are transparent. The Commission was asked to provide for inspection all documents related to interactions with tobacco lobbyists in 2020 and 2021, including requests for public access to documents concerning such interactions. The Ombudsman also asked to inspect any internal guidance that has been given to Commission staff.

The EU is a party to the Framework Convention on Tobacco Control (FCTC) of the World Health Organisation (WHO), according to which it must prevent the tobacco industry from having a negative impact on public health policies. Among other things, this requires the Commission be fully and proactively transparent about meetings with representatives of the tobacco industry. However, apart from DG SANTE and DG TAXUD, Commission departments do not proactively make public details on meetings that happen below the level of directors-general.

  **European Ombudsman**

We opened an inquiry into #transparency of @EU_Commission interactions with #tobacco lobbyists, in line with @WHO convention #FCTC. All departments should follow @EU_Health and @EU_Taxud lead on proactive transparency. Here is our letter to @vonderleyen: <http://ombudsman.europa.eu/en/news-document/en/149795>



We opened an inquiry into transparency of the European Commission's interactions with tobacco lobbyists, in line with the World Health Organization framework convention on tobacco control.

All departments should follow the lead on proactive transparency of the Commission's Directorate-General for Health and Food Safety and Directorate-General for Taxation and Customs Union.

In reaction to the Ombudsman's [inquiry](#) examining the transparency of its response to the COVID-19 pandemic, the European Centre for Disease Prevention and Control (ECDC) put in place measures to improve the accountability of its decision making. These included making it easier for the public to follow the evolution of its scientific advice and to see the data underlying its scientific assessments. It also committed to more transparency around exchanges with international partners and to improving its communication with the general public.

The Ombudsman's [assessment](#) of the Council's response to the pandemic found that, for the initial months of the crisis, remote ministerial meetings did not meet the transparency standards that apply to in-person Council meetings in normal circumstances. However, the Ombudsman also noted that some of the practices adopted by the Council during this period improved accountability and asked that they continue.

  **European Ombudsman**

Following a six-month inquiry, we have made proposals to @ECDC_EU to enable greater public scrutiny & understanding of its work. This is part of our wider monitoring of how EU institutions responded to #COVID19. PRESS RELEASE: <https://europa.eu/!uu38Vu>



Following a six months inquiry, we have made proposals to the European Centre for Disease Prevention and Control to enable greater public scrutiny and understanding of its work.

This is part of our wider monitoring of how EU institutions responded to COVID-19.

These included the wider use of written comments ahead of and after meetings of national civil servants, which increased documentation about Working Party discussions.

For people to be able to follow how decisions are made at the EU level, they need a repository of documents which they can request access to. To be meaningful and helpful, these public registers of documents should be up-to-date and complete. Following an [inquiry](#) by the Ombudsman, the European Union Agency for Law Enforcement Cooperation (Europol) agreed to improve and update its register of documents – including by creating a dedicated webpage for its register – to make it a more useful tool for the public.

The Ombudsman also looked into Frontex's public register of documents, following a [complaint](#) contending that it was not properly maintained. The Ombudsman set out a number of solution proposals to improve the register, which Frontex then agreed it would implement.

Concerns about the transparency of decision making in environmental matters continued to be a source of complaints in 2021.

In April 2021, the Ombudsman opened an [inquiry](#) into the Commission's role in assessing the sustainability of gas projects listed as projects of regional significance by the Energy Community (which brings together the EU, countries in the Western Balkans, in the Black Sea Region, and Norway). The complainant considered that the projects were not given an adequate sustainability assessment before being included on the list, as the methodology used was similar to one formerly used for assessing EU 'projects of common interest', which the Commission has since deemed to be inadequate.

Following a complaint by a group of civil society organisations, the Ombudsman opened an [inquiry](#) into how the Commission carried out a public consultation on the Sustainable Corporate Governance initiative, which aims to encourage companies to better manage sustainability issues in their operations. The complainants contended that, in reporting on the outcome of the consultation, the Commission did not properly take into account the views of all respondents to the consultation.

In June, the Ombudsman set out preliminary findings to the European Investment Bank (EIB) concerning the transparency of environmental information about projects its finances, both directly and indirectly.

The Ombudsman [suggested](#) that the EIB should make public much greater detail about the environmental implications of projects it finances. The Ombudsman asked the EIB to publish source documents that contain the facts, as well as the technical assumptions and calculations used when assessing the projects. For projects with a significant environmental impact, the Ombudsman also proposed that the EIB should prioritise enhanced proactive transparency, so that its monitoring reports of projects underway can be published rapidly.

It is clear that there will be high public interest in the EU's Recovery and Resilience Facility (RRF) – funds meant to be spent on helping the EU recover from the pandemic and address challenges such as the climate crisis. To this end, the Ombudsman [wrote](#) to the Commission asking it to anticipate the strong interest in its negotiations with Member States on their recovery and resilience plans. Noting the likelihood of access to document requests related to this matter, the Ombudsman suggested the Commission should provide more information on the relevant documents it holds.

3

Revised Ombudsman Statute



The European Ombudsman welcomed the revised statute, which endorses the Ombudsman's proactive inquiry powers and includes new safeguards to guarantee the independence of the Office.

In June 2021, with a very large majority – 602 out of 692 votes cast – the Parliament adopted an updated statute for the Ombudsman's Office. The new statute codifies many of the Office's successful working practices over recent years. The Ombudsman will be able to launch own-initiative inquiries whenever she finds grounds, in line with the treaty. The strong approval of the new statute can be seen as a validation of the Office's work in handling citizens' complaints and conducting inquiries.

It takes into account the new legal basis in the Lisbon Treaty, and is a Regulation of the Parliament rather than a Decision. The Statute was the first piece of legislation under the Lisbon Treaty that is based on the Parliament's right of initiative. The revised statute provides a strengthened legal framework for the Office and introduces new safeguards that further guarantee

its independence, including an adequate budget to support the Office's activities. There is a new cooling-off period of two years for politicians, including Members of the European Parliament, who want to become candidates for election as European Ombudsman. This will help protect the independence of the Office, which is crucial for its treaty-based role.

The revised statute retains the Ombudsman's strong inquiry powers, including that institutions must provide the Ombudsman with any information necessary for her inquiries. Where appropriate, in relation to an inquiry, the Ombudsman may be heard before the Parliament, on her own initiative or at the request of the Parliament.

The Office is currently updating its implementing provisions to the Statute which detail the Office's working procedures.

4

20 years of Regulation
1049/2001

Transparency and access to documents has long been a priority for the Ombudsman, and accounts for around one-quarter of the inquiries the Office conducts. The Ombudsman serves as a redress mechanism for those denied access to EU documents, which gives the Office considerable expertise into how this fundamental right is applied in practice by the EU administration.



High-level panel discussion on the future of access to EU documents at the Residence Palace in Brussels.

2021 marked the twentieth anniversary of the coming into force of the EU 'transparency law' (Regulation 1049/2001), which gave concrete expression to the right of public access to EU documents and significantly increased the accountability of the EU administration. Coinciding with this, the Ombudsman made access to documents a special focus for the Office throughout the year.

This culminated in a public conference, which took place on 15 November in Brussels – *Access to EU documents: what next?* The conference, which took place in 'hybrid' format, was divided into two parts: a high level panel considering the future of access to document rules and an expert panel looking into the experiences people have when they request documents.

For the high-level panel, European Ombudsman, Emily O'Reilly was joined by Věra Jourová, European Commission Vice-President for Values and Transparency, Heidi Hautala, European Parliament Vice-President and Reijo Kemppinen, Director-General for Communication

and Information in the General Secretariat of the Council. In order to prepare the conference, the Ombudsman carried out an *ad hoc survey* of some stakeholders on their experience requesting access to EU documents.

Earlier in the year, the Ombudsman carried out an initiative to find out how the EU institutions, bodies, offices and agencies make the public aware of the right of public access to documents. The initiative resulted in a *guide to EU institutions* on what policies and practices they should have in place to give effect to the right of public access, which was published on the day of the conference (15 November).

A key issue, raised during the conference and through complaints, is how the EU administration deals with text and instant messages and other new technologies in the context of its transparency obligations. In July, the Ombudsman *launched* a strategic initiative into how the administration records text and instant messages sent/received by staff members in their professional capacity. The *initiative* aims to take stock of the current rules and practices on record keeping concerning these messages, with a view to identifying good practices within the EU administration.



Věra Jourová, European Commission Vice-President for Values and Transparency and Emily O'Reilly, European Ombudsman.

5

Award for Good Administration



Moderator Shada Islam with European Ombudsman Emily O'Reilly during the digital Award ceremony.



The Ombudsman handed the overall Award to Stefano Sannino, Secretary General of the EU External Action Service (EEAS) and Paraskevi Michou, Director-General for Civil Protection & Humanitarian Aid (ECHO) during a follow-up ceremony in the Citizen's Garden in Brussels.

The Ombudsman Award for Good Administration 2021 honoured the extraordinary efforts to help repatriate over half a million EU citizens stranded around the world due to the pandemic.

The joint winning projects were carried out by staff in the Commission's Directorate-General for Civil Protection and Humanitarian Aid (DG ECHO) and the European External Action Service (EEAS).

The overall winners and those in various categories were announced during a digital ceremony in June, which began with a video address by Commission President Ursula von der Leyen.

Speaking about the effects of COVID-19 on both the internal and external work of the EU administration, Ombudsman O'Reilly noted that *"many of the submitted projects showed the great lengths EU staff went to in order to help citizens during the pandemic"*.

In September, there was a short follow-up ceremony in the Citizens' Garden in Brussels, at which the prizes were handed over in person.

The biennial Award – introduced by Emily O'Reilly in 2017 – recognises actions by the EU public administration that have a visible and direct positive impact on the lives of people across Europe and beyond. Prizes in four categories were also awarded.

The nominations were assessed by an independent advisory board and the winners were chosen by the Ombudsman.

6

Complaints and
inquiries: how we
help the public

The European Ombudsman helps people, businesses and organisations facing problems with the EU's administration by dealing with the complaints they submit, but also by seeking to promote good administrative practice by proactively identifying broader systemic issues with the EU institutions.

The Ombudsman is constantly seeking to improve internal procedures, with a view to ensuring the Office deals with inquiries in the most efficient manner and complainants have an optimal experience. The streamlined Inquiries Directorate, which was established in 2020, has made further improvements to this end. This has included honing expertise and best practices through thematic inquiries teams, which has helped further improve the consistency and efficiency of Ombudsman inquiries.

While hybrid-working procedures remained in place throughout 2021, the Ombudsman's online complaints system meant that there was continuity in this core area of the Office's work. The number of complaints dealt with by the Office increased, compared to 2020.

Further improvements were introduced regarding how Ombudsman inquiries are presented and published online, with a view to making it easier for the public to follow the Office's work. A new '[Top inquiries](#)' section on the website puts a focus on Ombudsman inquiries with a wider public importance. A new section was introduced covering [the Ombudsman's work on public access to documents](#). The search functionality on the website was also improved.

The Office's diverse team of case handlers, and the website, reflect the Ombudsman's commitment to communicate with those seeking assistance in all 24 official languages of the EU.

While the Ombudsman is not always in a position to inquire into all complaints received, the Office nonetheless tries to help all those who seek assistance, for example by providing advice on other possibilities for redress.

6.1. Type and source of complaints

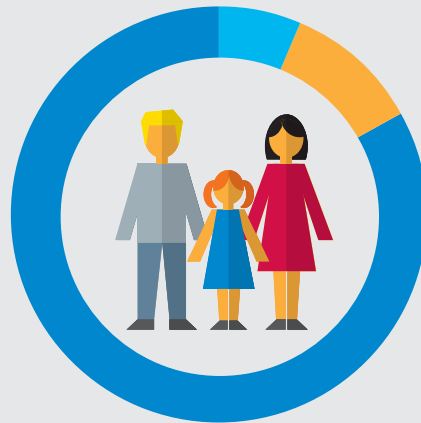
6.1.1. Overview of complaints and strategic inquiries

The Ombudsman may open an inquiry only into complaints that are within her mandate and have fulfilled the necessary 'admissibility criteria', such as having previously tried to resolve the matter directly with the institution involved. The new organisational structure has led to further improvements in how the Ombudsman deals with complaints, reducing the time it takes to process complaints and complete inquiries.

The themes of the Office's work derive from the Ombudsman's mandate and the complaints received, which account for most cases. 2021 marked the twentieth anniversary of the coming into force of the EU "transparency law" (Regulation 1049/2001). Coinciding with this, the Ombudsman made access to documents a focus for the Office throughout the year. As with previous years, transparency remains the leading topic of complaints, and is also a priority for the Ombudsman's strategic work.

Advice, complaints and inquiries in 2021

20 536
People helped



17 060

Advice given through the Interactive Guide on the Ombudsman's website

2 166

New complaints handled

1 310

Requests for information replied to by the Ombudsman's services

338
Inquiries opened



332

Inquiries opened on the basis of complaints

6

Own-initiative inquiries opened

305
Inquiries closed



300

Complaint-based inquiries closed

5

Own-initiative inquiries closed

In addition to the Ombudsman's core work on complaints, the Ombudsman also conducts wider strategic inquiries and initiatives into systemic issues with EU institutions. In line with the Ombudsman's

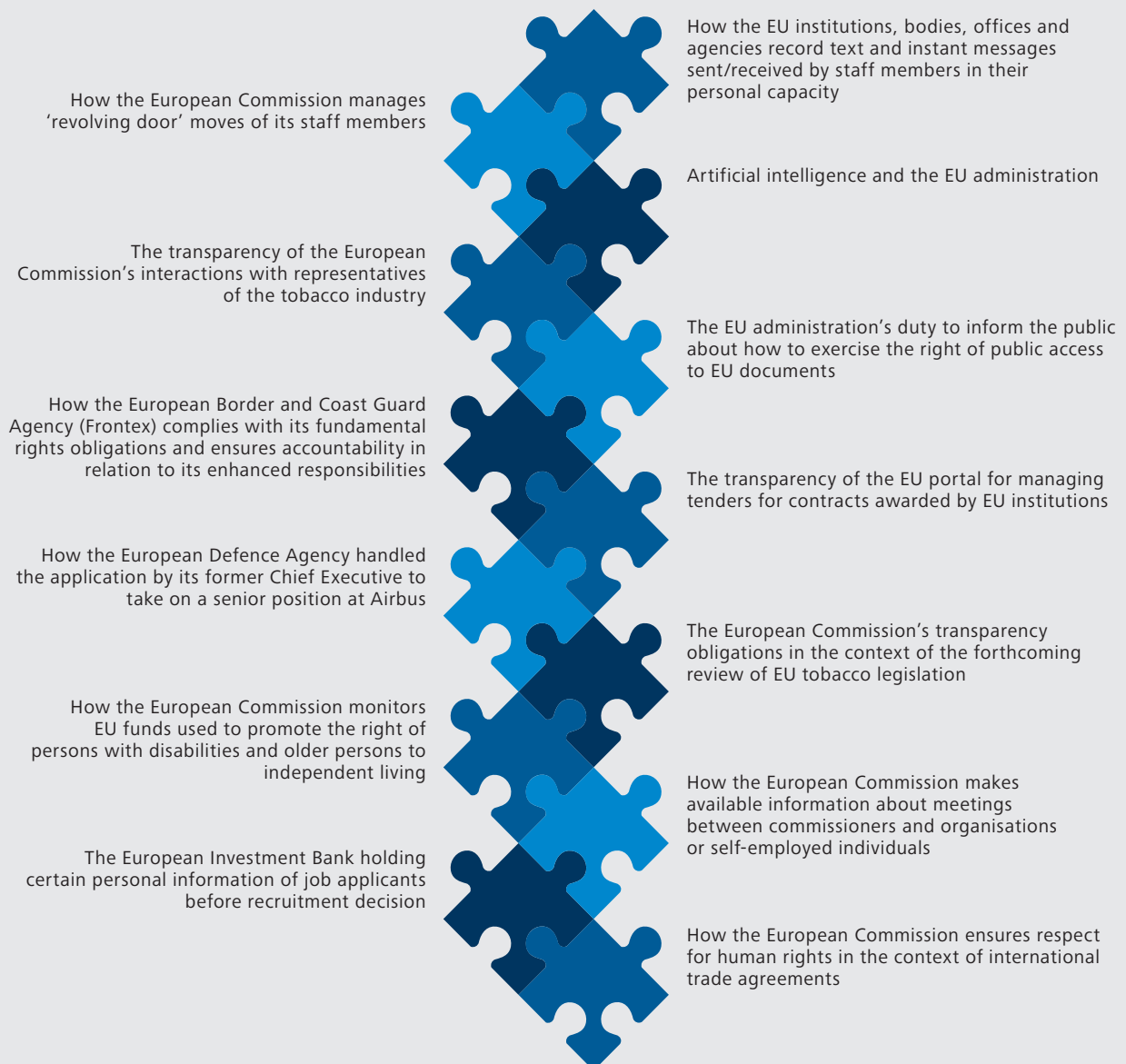
'Towards 2024' strategy, 2021 saw an increase in the strategic work of the Ombudsman, with a greater number of inquiries and initiatives opened on a diverse range of issues.

Topics of strategic work in 2021

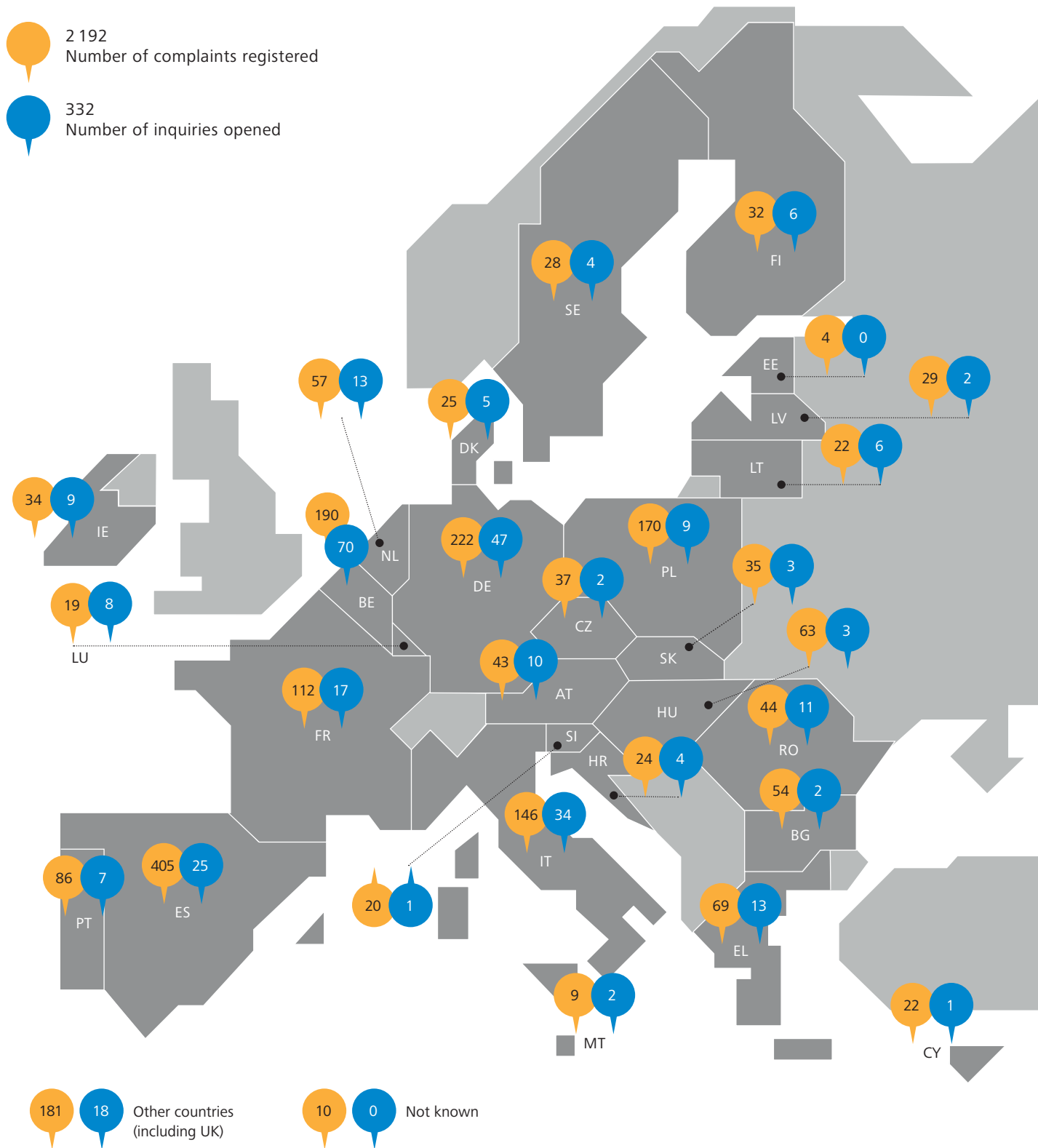
Strategic inquiries

Strategic initiatives

(requests for clarification, not formal inquiries)



National origin of complaints registered and inquiries opened by the European Ombudsman in 2021



6.1.2. Complaints outside the Ombudsman's mandate

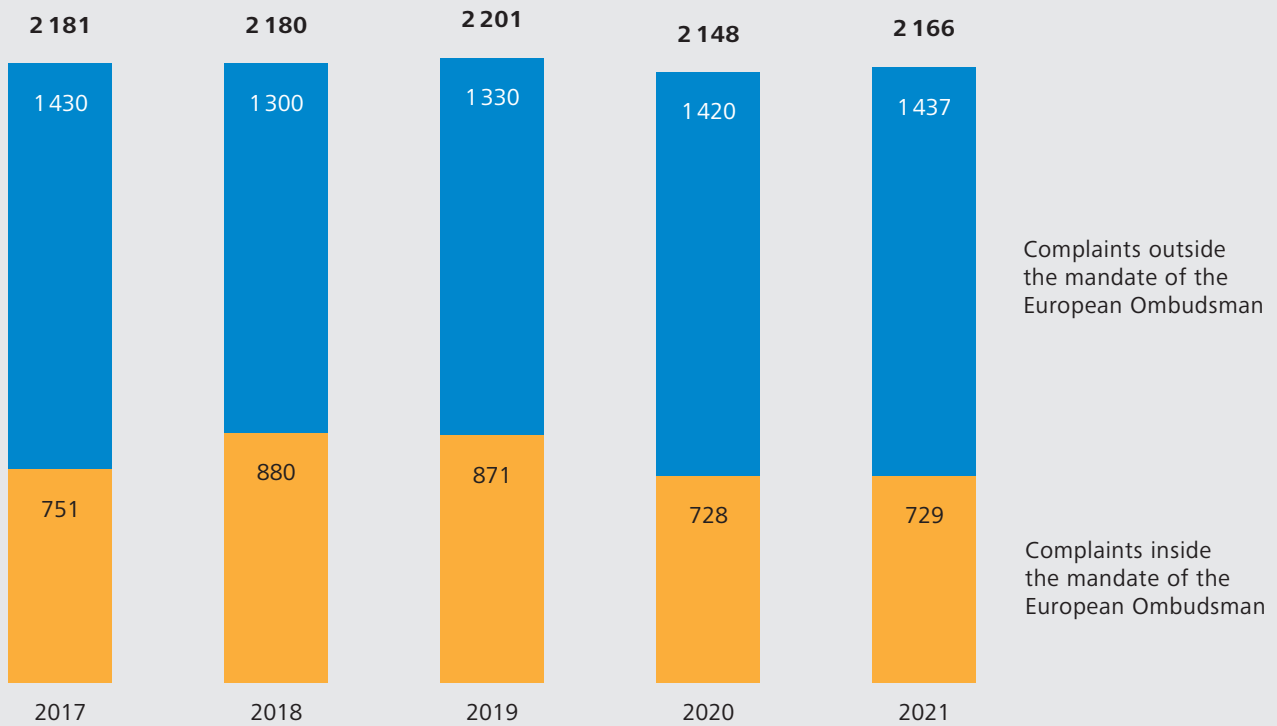
In 2021, the European Ombudsman processed over 1 400 complaints that did not fall within her mandate, mostly because they did not concern the work of the EU administration. Over 40% of such complaints came from Spain, Poland and Germany.

For the most part, people approached the Ombudsman with issues concerning health care, equal treatment or discrimination, and consumer protection, as well as complaints concerning the COVID-19 pandemic. These out of mandate complaints primarily related to problems encountered with national, regional or local public bodies as well as national or international courts (such as the European Court of Human Rights). There was also a large number of complaints concerning the private sector. Other out of mandate complaints concerned the political or legislative work of the EU institutions.

The Ombudsman replied to all those seeking help in the language of their complaint or of their preference. The replies clarified the Ombudsman's mandate and, as far as possible, advised complainants what other bodies could help. With the complainant's agreement, the Ombudsman also transferred complaints to suitable members of the European Network of Ombudsmen (ENO).

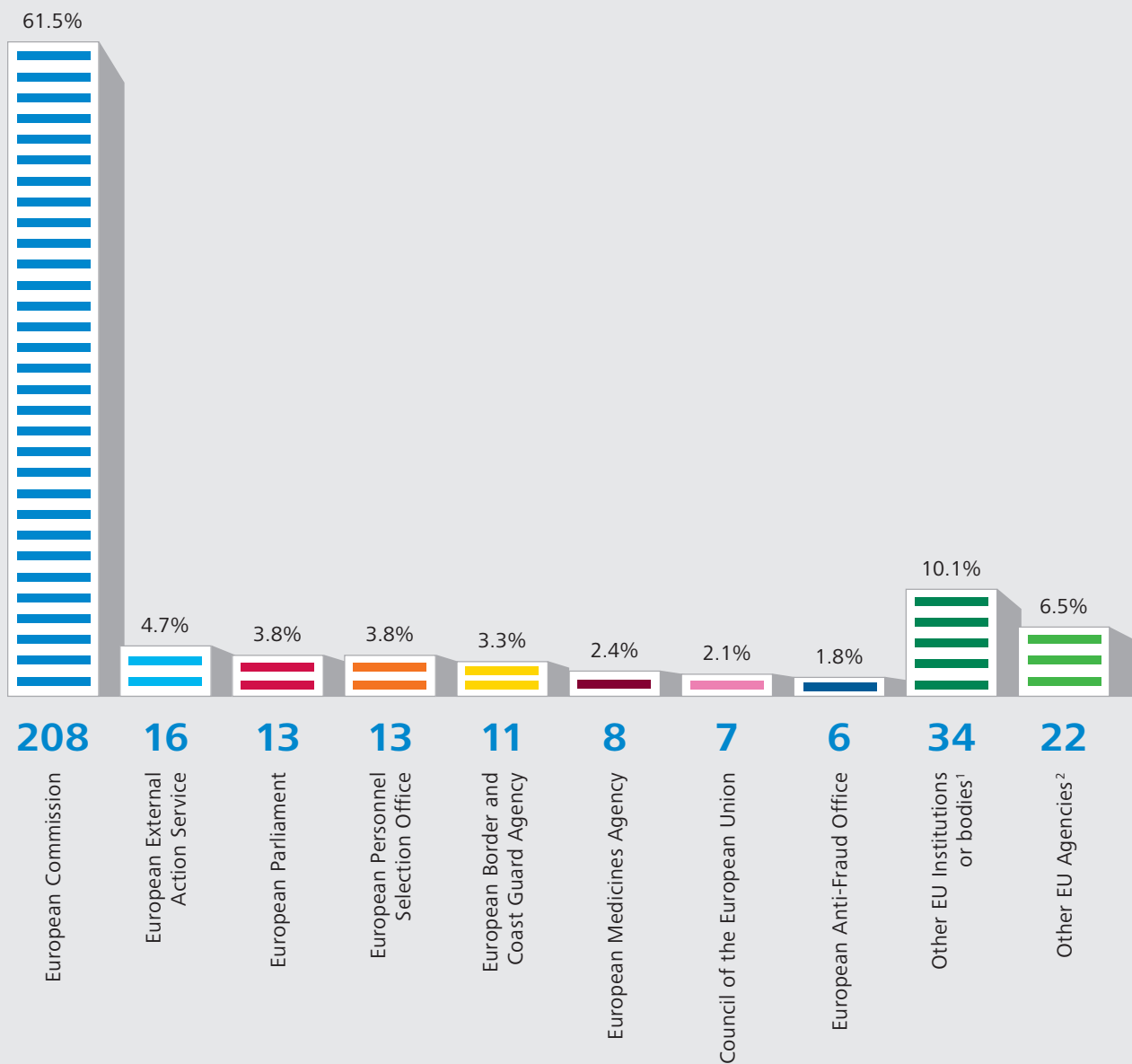
Where complainants were unhappy with specific EU legislation, the Ombudsman generally advised them to turn to the European Parliament's Committee on Petitions. Complainants who raised other issues, including the implementation of EU law, were referred to the European Commission, national or regional ombudsmen, or to EU networks such as Europe Direct and Solvit.

Number of complaints 2017-2021



6.2. Against whom?

Inquiries conducted by the European Ombudsman in 2021 concerned the following institutions

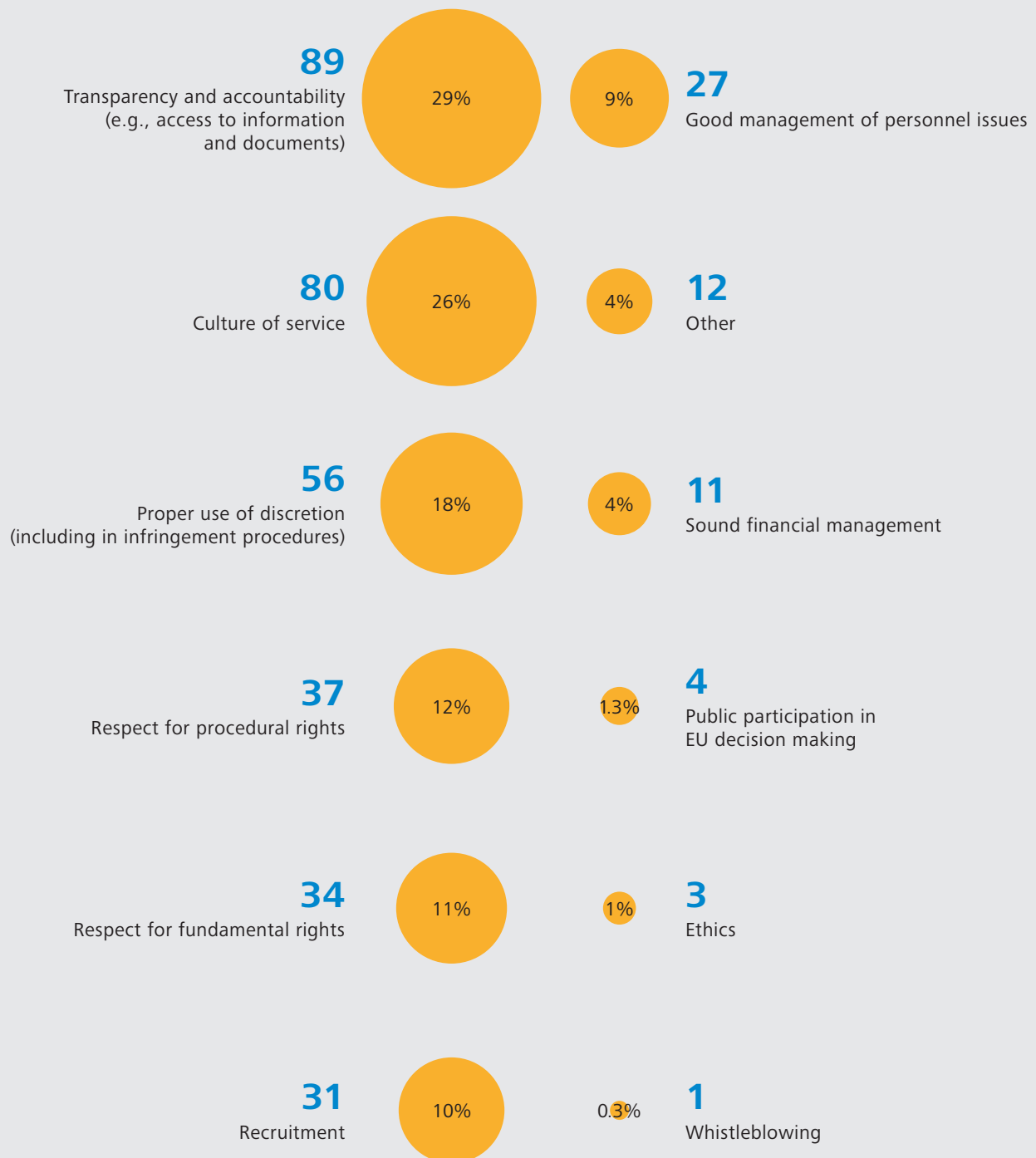


1. Including ECB (0.9%), EIB (0.9%), EUIPO (0.9%), and ESMA (0.9%).

2. Including EISMEA (1.2%) and ENISA (0.9%).

6.3. About what?

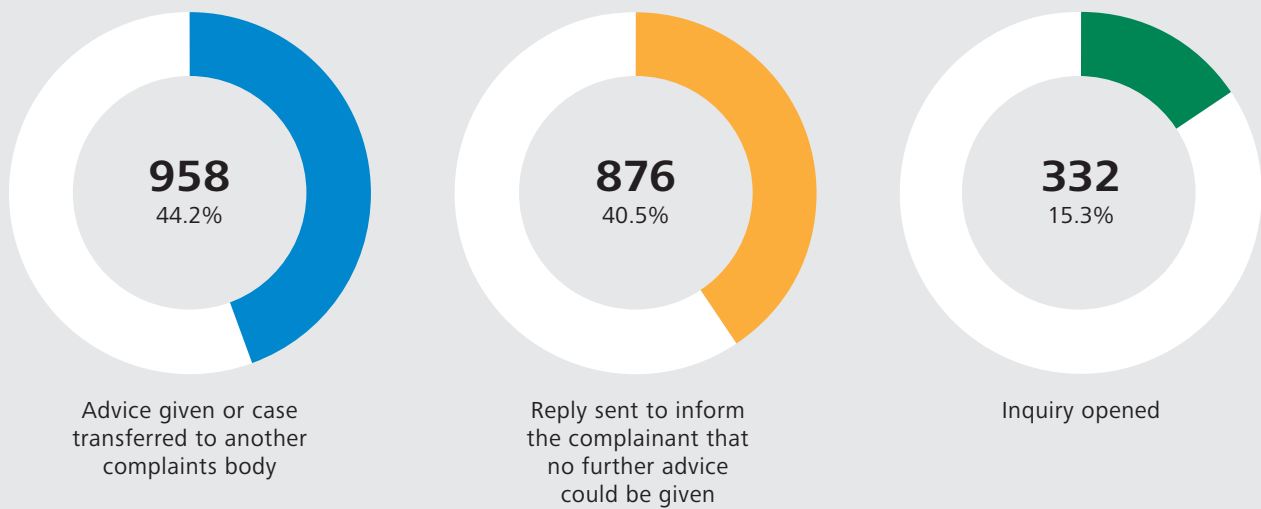
Subject matter of inquiries closed by the European Ombudsman in 2021



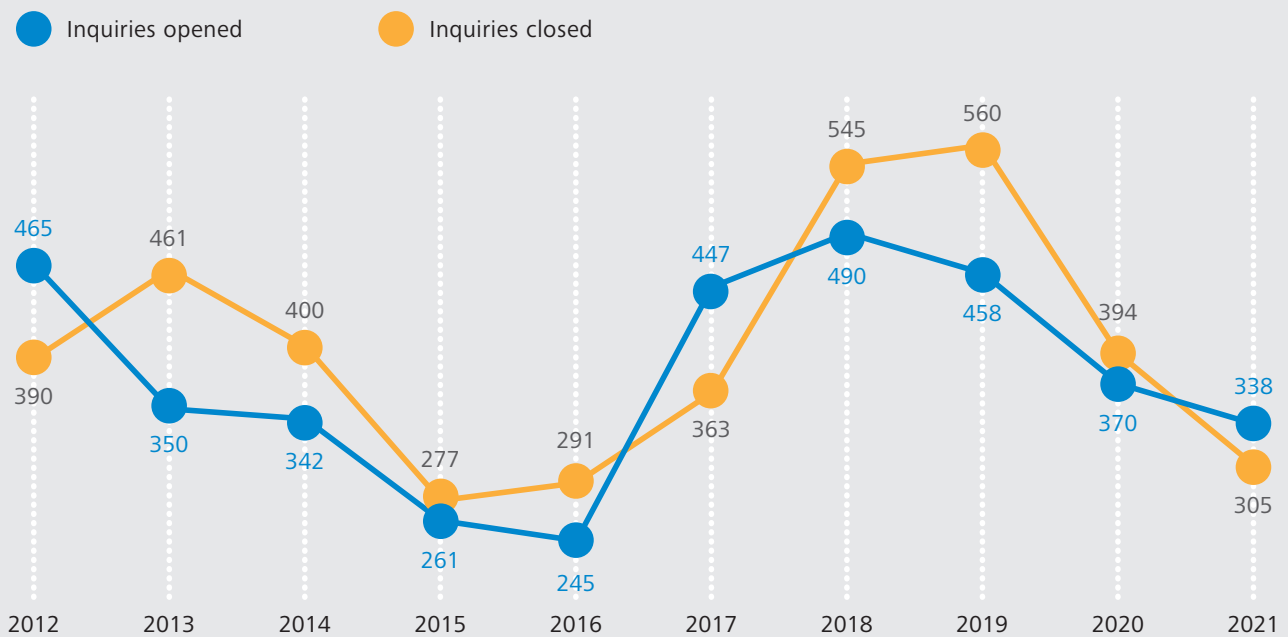
Note: In some cases, the Ombudsman closed inquiries with two or more subject matters. The above percentages therefore total more than 100%.

6.4. Results achieved

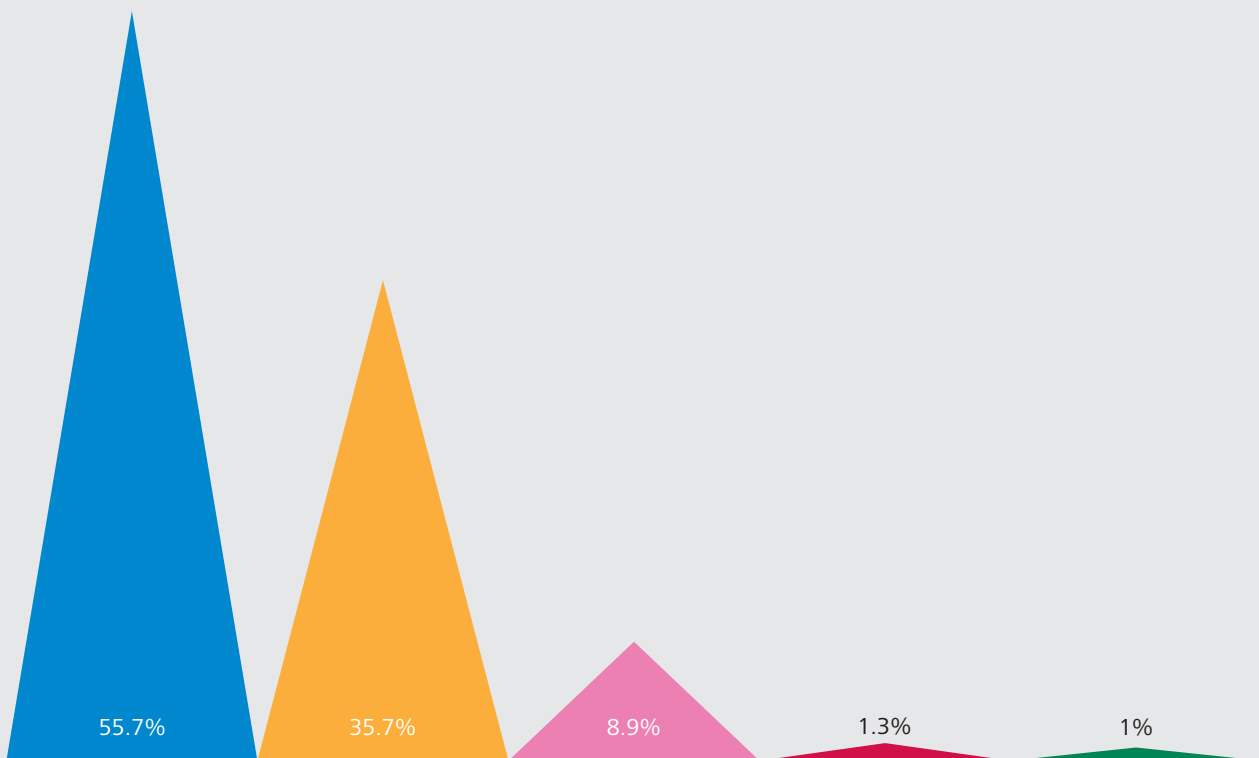
Action taken by the European Ombudsman on new complaints dealt with in 2021



Evolution in the number of inquiries by the European Ombudsman



Results of inquiries closed by the European Ombudsman in 2021



170 Settled by the institution, solutions achieved, solutions partly achieved, suggestions accepted by the institution

109 No maladministration found

27 No further inquiries justified

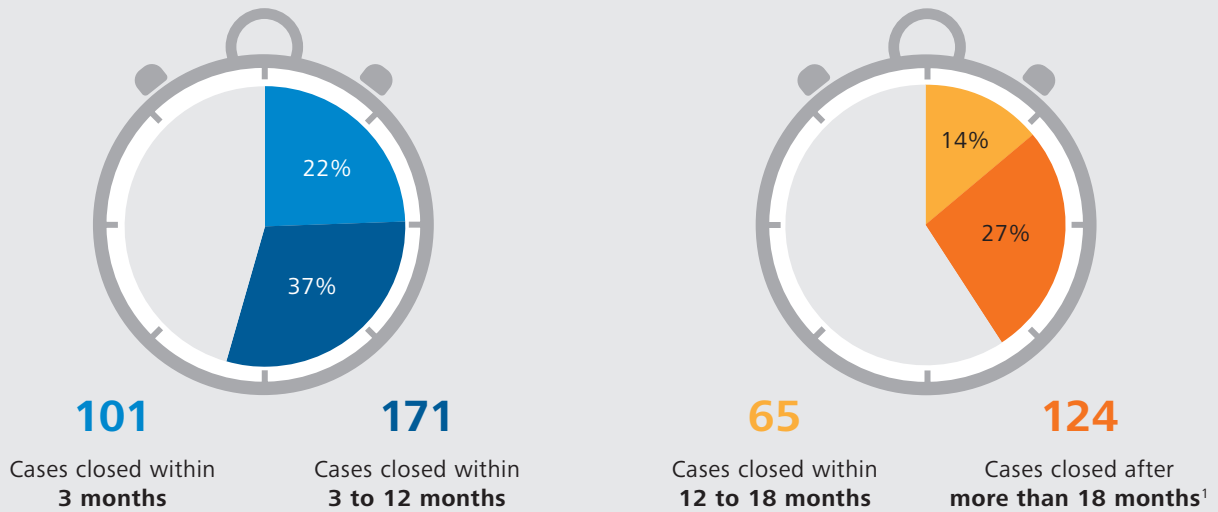
4 Maladministration found

3 Other

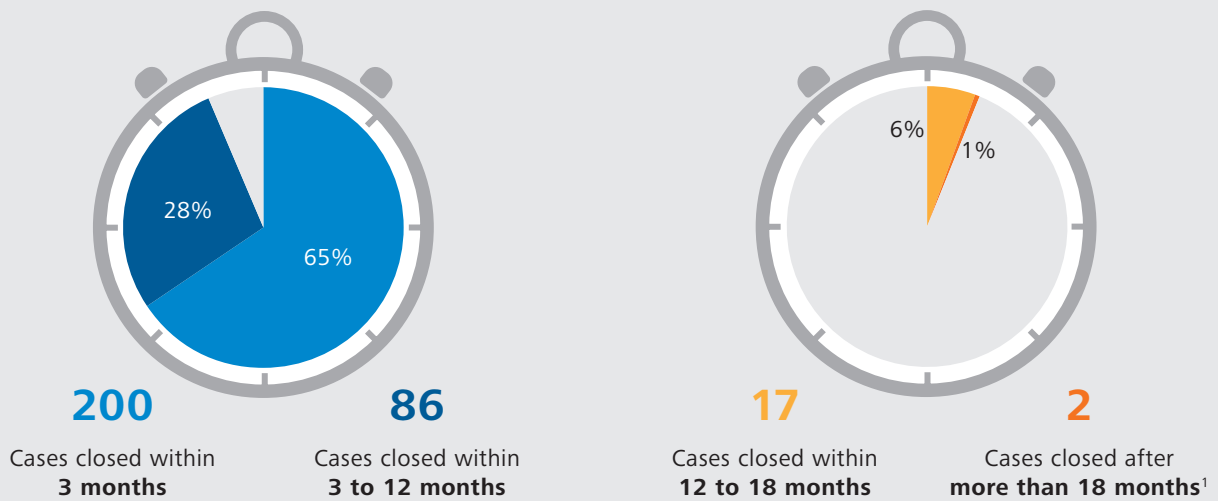
Note: In some cases, the Ombudsman closed inquiries on two or more grounds. The above percentages therefore total more than 100%.

Length of inquiry of cases closed by the European Ombudsman

in 2013 (13 months on average)



in 2021 (less than 4 months on average)



1. Some complex cases require several rounds of consultations with the complainant and the institution concerned.

6.5. Impact and achievements

One of the overarching goals of the European Ombudsman is to achieve tangible improvements for complainants and the public in the EU administration. The Ombudsman achieves this by making proposals in the form of solutions, recommendations and suggestions. The Ombudsman can also promote improvement through strategic initiatives, which are not formal inquiries. She may also prompt an institution to settle a matter even before a formal solution proposal or recommendation is made.

6.5.1. Acceptance rate

The acceptance rate is the percentage of positive replies to the total number of proposals (solutions, recommendations and suggestions) made by the Ombudsman. As the Ombudsman gives institutions up to six months to follow up on suggestions made in her decisions closing inquiries, the acceptance rate for 2021 covers cases closed in 2020.

In 2020, the EU institutions cooperated satisfactorily with the Ombudsman in 81% of instances. This rate represents an improvement on the previous year¹.



Overall, the EU institutions reacted positively to 29 out of the 36 proposals the Ombudsman made to correct or improve their administrative practices. Out of the 12 institutions to which the Ombudsman made proposals, 10 complied fully with all solutions, suggestions and recommendations. Of the remaining two institutions, the Commission complied with 16 of the 22 proposals made by the Ombudsman, while the Council complied with one of the two proposals made by the Ombudsman.

6.5.2. Broader impact

The acceptance rate captures responses from the institutions to proposals at a particular point in time and does not fully capture the impact of the Ombudsman's work over time.

The Ombudsman's investigations can draw attention to systemic issues, and the resulting positive changes are not always reflected in the yearly figures.

A good example of this is Ombudsman's inquiry into corporate sponsorship of presidencies of the Council of the EU. In response to the Ombudsman's findings, the Council did eventually agree guidelines on corporate sponsorship for Member States holding these six-month presidencies. The inquiry led to improved transparency around this issue as Member States holding the Presidency started to list their corporate sponsorship on their official presidency websites, allowing Parliament and media to monitor the issue.

Impact can also be achieved by heightening debate around a topic. The work of the Ombudsman, together with Parliament and many others, can have an important 'deterrent effect'. Institutions are aware that administrative action falling short of the high standards the public expects might give rise to an Ombudsman inquiry or to wider public scrutiny.

A specific example of this concerns the issue of the participation of Members of the European Commission in national election campaigns. The Ombudsman received two complaints related to the participation by the Commission President and a Commission Vice-President in a campaign video for a Croatian political party. While the Ombudsman did not find grounds to open an inquiry, she asked the Commission to clarify how the Code of Conduct is applied in the context of election campaigns. In response, the Commission announced that it would draw up new guidelines on how commissioners can participate in national elections.

1. Until 2020, the *Putting it Right?* report, gave an account of how the EU institutions responded to the Ombudsman in cases closed in the previous year. Following the adoption of Ombudsman's new Statute in 2021, this assessment is now included in the Annual Report.

7

Communication and cooperation

7.1. Communication



Nini Tsiklauri addressing the audience during the European Youth Event.

The Office continued its efforts to promote the work of the European Ombudsman to the widest possible audience. Targeted and innovative communication was used to raise public awareness of specific inquiries and on general issues, such as transparency and ethics, as well as about the Ombudsman's role in promoting high accountability standards for the EU administration.

The website continued to evolve as a dynamic content hub for the Ombudsman's work, making it as simple as possible for the public to find relevant inquiries, latest news updates as well as explanations of key issues.

A new '[Top inquiries](#)' section was introduced on the website, which focuses on inquiries with a wider public importance. The inquiries are listed based on the latest updates and using short case pages with teaser texts as entry points for those seeking information on an inquiry. The search functionality on the website was improved, making it easier for visitors to find the documents they are searching for.

New sections were introduced on the Ombudsman's website, covering [the Office's work on public access](#) to EU documents, as well as on how to [access to Ombudsman documents](#). The focus on access to documents was complemented by a communication campaign as well as a scrollable [web story](#) and a short explainer [video](#).

For the first time, the Ombudsman's Annual Report's from 2020 was presented as a [web story](#), making it easy to see what the main areas of Ombudsman work are and where the Office had the most impact.

The Ombudsman presented the work of the Office during the annual press conference in May. During the press conference, the Ombudsman announced the opening of a broad inquiry into how the Commission handles 'revolving doors' (see above), and presented the major ongoing and recently-completed inquiries.



Several participants took the floor to talk about what the Union meant for them, emphasizing in particular the importance of upholding the rule of law. They also spoke about the importance of good communication by the EU institutions and what the EU can do for younger generations.



The Ombudsman with journalist Christine Boos in the summer of 2021.

To spread the word about the winners of the Award for Good Administration and to encourage the sharing of good ideas and practices, a social media campaign around the award ceremony was followed by a separate visual [representation](#) of the winning projects.

The Ombudsman took part in the [European Youth Event](#) (EYE2021) in Strasbourg on 8 October, which was organised as part of the consultation process for the [Conference on the Future of Europe](#). In a debate moderated by author and activist Nini Tsiklauri, the Ombudsman answered questions from young people about the Office's work, as well as on issues such as transparency and democracy, and the future of the EU.

In 2021, similar to the previous year, the fastest-growing social media account was Instagram (46% growth, which equals to 1 195 new followers). On LinkedIn, the number of followers increased by 24% (+ 1 148), while on Twitter, where the Ombudsman has the largest audience amongst all social media channels, the number of followers reached 31 300 in December 2021, which represented a 7% increase (+ 2 140).

Finally, the Ombudsman and staff members continued their outreach activities by giving interviews to the press, speaking at major academic and legal conferences and speaking to visitor groups.

7.2. Relations with EU institutions

7.2.1. European Parliament

The excellent relations between Ombudsman Emily O'Reilly and the Parliament continued to be consolidated in 2021. Early in the year, the Ombudsman addressed a plenary session of the Parliament and throughout the year she and members of her staff attended committee meetings to present the Ombudsman's work on specific inquiries. The Ombudsman met regularly with Members of Parliament across the political spectrum either via video or in person in Brussels and Strasbourg. Due to the pandemic, the handover of the Ombudsman's Annual Report 2020 to the European Parliament President took place digitally on 6 September 2021.

7.2.2. Committee on Petitions

The Committee on Petitions of the European Parliament is part of the European Network of Ombudsmen and is the parliamentary committee in charge of relations with the European Ombudsman. Strong collaboration between the two bodies is important to increase the democratic accountability of the EU institutions. Throughout the year, the Ombudsman received solid support for her work from the Committee and its Chair, Dolors Montserrat, with whom she met regularly. The Ombudsman and her staff participated in Committee meetings on topics of common interest and several resolutions by the Committee referred to Ombudsman inquiries, particularly in relation to the transparency and accountability of the EU administration in the context of COVID-19.

7.2.3. European Commission

The European Commission is the largest EU institution. The scope of its work as the EU's executive branch means that, proportionally, a majority of the complaints received by the Ombudsman concern the Commission's work. The working relationship between the European Ombudsman and the Commission continued to be very constructive in 2021. Commission Vice-President Jourová spoke at a conference organised by the Ombudsman in November on access to documents (see above) – a matter on which the Ombudsman receives many complaints – and announced that the Commission would work to improve rules in the area. There were regular contacts at service level between the two institutions, allowing staff to maintain constructive relations.



Věra Jourová

I welcome the initiative of the #EOdebate on public access to documents.

@EU_Commission fully supports a high level of #transparency and access to documents within the EU institutions. We aim at a revision of the existing rules to fully bring them in line with reality.



I welcome the initiative of the European Ombudsman on public access to documents.

The European Commission fully supports a high level of transparency and access to documents within the European institutions. We aim at a revision of the existing rules to fully bring them in line with reality.

7.2.4. Other institutions, agencies and organisations

Relations with different parts of the EU administration is an integral part of the Ombudsman's strategy 'Towards 2024'. A long-lasting and positive impact on the EU administration can only be achieved through close cooperation. The Ombudsman upholds close relations with many EU institutions, bodies, and agencies. In 2021, the European Ombudsman met, among others, the President of the European Court of Justice, the European Chief Prosecutor, the Director of the European Agency for Fundamental Rights (FRA), the Chairperson and the Executive Director of the European Banking Authority (EBA), as well as a member of the European Court of Auditors. The Ombudsman also maintains good relations with civil society and international organisations. She met the Secretary-General of the OECD and her Office is now part of the OECD's informal Network on Transparency and Accountability. Ombudsman staff spoke at events organised by the European Anti-Fraud Office (OLAF), the European Law Academy (ERA) and the Meijers Committee, a Dutch research network on EU law.

7.2.5. UN Disability Rights Convention

As a member of the [EU Framework for the UN Convention on the Rights of persons with Disabilities \(UN CPRD\)](#), the Ombudsman protects, promotes, and monitors the EU administration's implementation of the Convention. In 2021, the Framework was chaired by the European Parliament. The Framework followed closely the developments concerning the EU Strategy for the Rights of Persons with Disabilities 2021-30 to which the Framework contributed. It also started preparations for the EU review of the implementation of the CRPD Committee's concluding observations.

Following up on two inquiries – closed in [2019](#) and [2020](#) respectively – concerning how EU funds are spent in relation to social care institutions, the Ombudsman opened an own-initiative inquiry into how the Commission monitors EU funds used to promote the right of persons with disabilities and older persons to independent living. The Ombudsman is currently assessing the Commission's [reply](#), having also consulted organisations involved in the rights of persons with disabilities and older persons.

As management of the European Structural and Investment Funds is shared between the Commission and national authorities, the Ombudsman asked members of the European Network of Ombudsmen (ENO) for input on the matter. The Ombudsman also held a webinar with members of the ENO to discuss institutional care, the use of funds, and lessons learned from the COVID-19 pandemic.

In June 2021, the Ombudsman closed a [strategic initiative](#) on how the Commission accommodates the special needs of staff members with disabilities in the context of COVID-19. Based on the Commission's response to the pandemic and expert input, including from the European Disability Forum and the EU Fundamental Rights Agency, the Ombudsman drew up an indicative list of best practices for accommodating the needs of persons with disabilities during emergencies.

The Ombudsman received a [complaint](#) concerning the European Commission's refusal to grant, under its rules, an increased child allowance to a staff member with a child with a disability. The Ombudsman opened an inquiry and invited the Commission to reply to the complaint and to a set of specific questions.

The Office presented its work related to the rights of persons with disabilities at several events throughout the year, including one organised by the European Disability Forum.

7.3. European Network of Ombudsmen

The European Ombudsman sought to strengthen the cooperation and working methods of the European Network of Ombudsmen (ENO), which is an informal network that the European Ombudsman coordinates. The ENO consists of around 100 offices in 36 European countries and also includes the European Parliament’s Committee on Petitions.

In 2021, the European Ombudsman sought to expand the role of the ENO in capacity building and sharing best practice. To this end, three targeted webinars were organised for experts in the offices of ENO members, which included the participation of experts from the EU administration. These webinars focused on different topics: artificial intelligence and e-government in public administrations; Frontex’s complaints mechanism and the monitoring of forced returns; and institutional care, the use of EU funds and lessons from the pandemic.

The European Ombudsman continued her ‘parallel work’ with the ENO in 2021. National ENO members were consulted and involved in the European Ombudsman’s own-initiative inquiry on how the European Border and Coast Guard Agency (Frontex) deals with complaints



Ombudsman met Werner Amon, Secretary General of the International Ombudsman Institute (IOI), in Vienna to discuss current issues for ombudsman institutions.

European Ombudsman

The European Network of Ombudsmen is meeting today to discuss the challenges posed by artificial intelligence #AI and #EGovernment in public administrations.

More about the #ENOnetwork and its role <http://europa.eu/IJQ34MG>



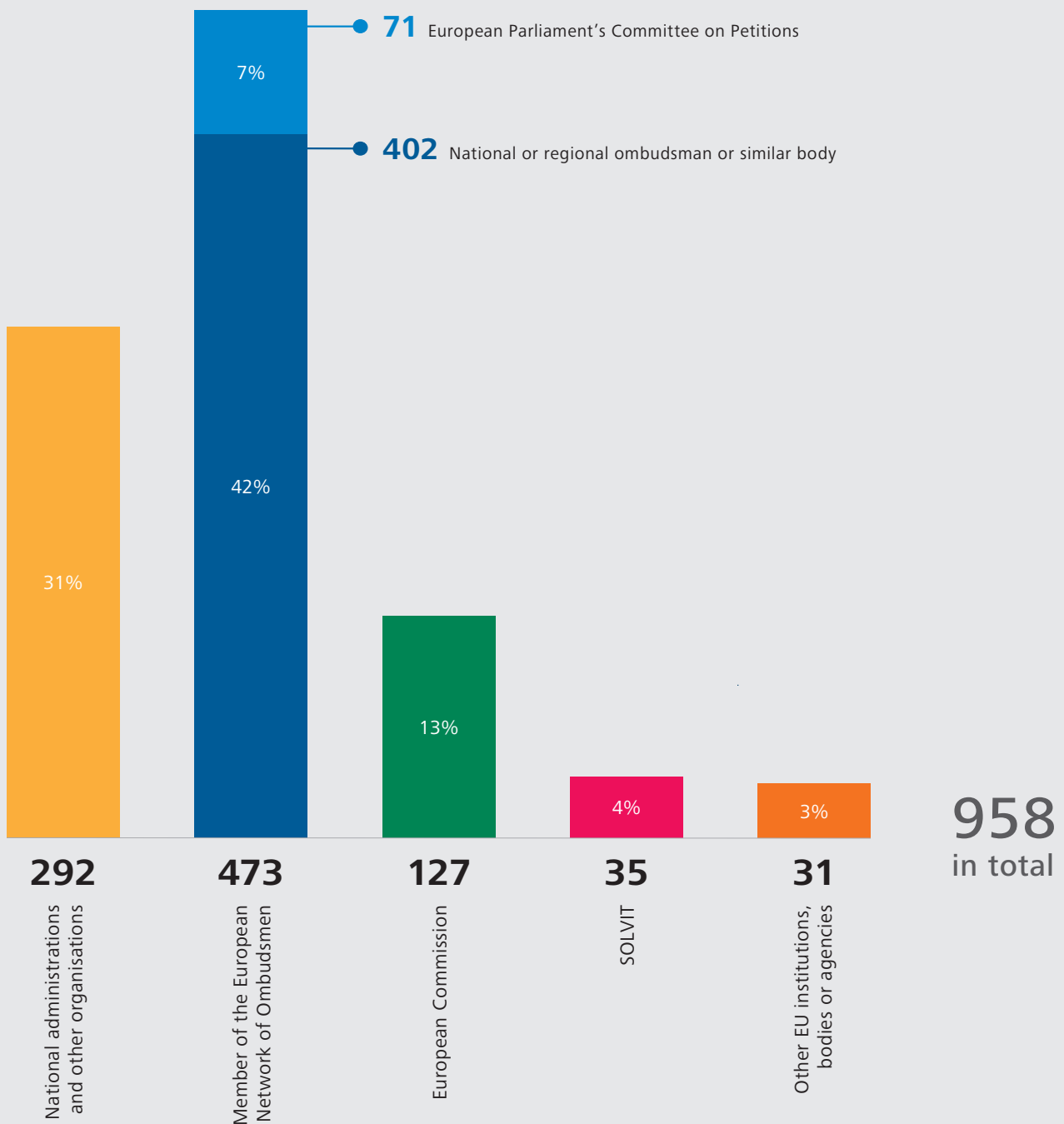
The European Network of Ombudsmen is meeting today to discuss the challenges posed by artificial intelligence and e-government in public administrations.

about alleged fundamental rights breaches through its complaints mechanism. They were also consulted and involved in the own-initiative inquiry on how the European Commission monitors EU funds used to promote the right of persons with disabilities and older persons to independent living.

Through the ‘query’ procedure, the European Ombudsman also assists ENO members in obtaining expert replies from the relevant section of the EU administration about EU issues that have arisen during their inquiries. In 2021, query topics included eligibility for the EU Digital COVID Certificate and Spain’s obligations concerning nature and biodiversity protection.

The Ombudsman had meetings with national and regional ombudsmen throughout the year.

Complainants advised to contact other institutions and bodies by the European Ombudsman in 2021 and complaints transferred



7.4. Europa Prize – Flensburg University

In November, the Ombudsman received the University of Flensburg's 'Europa Prize', awarded in recognition of her work to improve the accountability and transparency of the EU administration. In her acceptance [speech](#), the Ombudsman spoke about the importance of upholding the rule of law.

"I attempt to make sure that EU institutions match their rhetoric about the rule of law and democratic values and accountability and transparency to their actions in their dealings with citizens. Bad acts, even small unremarkable ones, that go against the values that the EU administration is obliged to uphold, drain that precious, fragile democratic resource and allow bad actors in to play their undemocratic games", said the Ombudsman in her speech.



8

Resources

8.1. Budget

The Ombudsman's budget is an independent section of the EU budget. It is divided into three titles. Title 1 covers salaries, allowances, and other expenditure related to staff. Title 2 covers buildings, furniture, equipment, and miscellaneous operating expenditure. Title 3 covers the expenditure resulting from general functions that the institution carries out. In 2021, budgeted appropriations amounted to EUR 12 501 836.

With a view to ensuring the effective management of resources, the Ombudsman's internal auditor regularly checks the internal control systems and the financial operations that the Office carries out. As is the case with other EU institutions, the European Court of Auditors also audits the Ombudsman.

8.2. Use of resources

Every year, the Ombudsman adopts an [Annual Management Plan](#), which identifies concrete actions that the office expects to take to give effect to the objectives and priorities of the Ombudsman's five-year strategy 'Towards 2024'. The 2021 Annual Management Plan is the first one to be based on this new strategy.

The Ombudsman has a highly qualified multilingual staff. This ensures that the Office can deal with complaints in the 24 official EU languages and raise awareness about the Ombudsman's work throughout the EU. Building upon its experience in 2020, the Office in 2021 continued to respond positively and quickly to the challenges posed by the COVID-19 pandemic. It adopted a modern hybrid-work policy to benefit from the new digital working environment while ensuring high efficiency and staff well-being.

In 2021, there were 73 posts in the Ombudsman's establishment plan, in addition to which, there was an average of six contract agents working with the Office, while 16 trainees gained work experience over the course of the year.

In June 2021, the Ombudsman completed the reorganisation of the Office with the creation of a Directorate for Administration. Marie-Pierre Darchy was appointed as Director for Administration following an open recruitment process. The new entity is responsible for all matters related to the institution's administration, human resources, budget, buildings, IT and records management.



Marie-Pierre Darchy, Director for Administration.

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