



European Ombudsman

P. Nikiforos Diamandouros
European Ombudsman

Framework decision

of the European Ombudsman on the creation of a public register

The European Ombudsman,

Having regard to:

Article 42 of the Charter of Fundamental Rights of the European Union, which provides that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, has a right of access to documents of the institutions, bodies, offices and agencies of the Union, whatever their medium;

Article 1 of the Treaty on European Union, which establishes a Union in which decisions are taken as openly as possible and as closely as possible to the citizen;

Article 15 of the Treaty on the Functioning of the European Union, which provides that, in order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible;

Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council, and Commission documents¹, and in particular Article 11 thereof;

The Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties², especially its Article 4a;

The Decision of the European Ombudsman adopting general implementing provisions governing the performance of his mandate³.

Whereas:

1. Regulation 1049/2001 applies to all documents.
2. The public registers foreseen by Article 11 of Regulation 1049/2001 constitute a practical instrument to help citizens exercise their fundamental right of access to documents.

¹ OJ L 145, 31.5.2001, p. 43.

² Adopted by Parliament on 9 March 1994 (OJ L 113, 4.5.1994, p. 15) and amended by its decisions of 14 March 2002 (OJ L 92, 9.4.2002, p. 13) and 18 June 2008 (OJ L 189, 17.7.2008, p. 25).

³ Adopted on 8 July 2002, and amended by decisions of the Ombudsman of 5 April 2004 and 3 December 2008.



3. The European Ombudsman's website already includes an extensive register of the Institution's inquiries.
4. To comply with Article 11 of Regulation 1049/2001, a public register should allow citizens to obtain knowledge of all documents or, at least, of all categories of documents relating to all activities, whether core or not, of the institutions concerned.. This Article must also be considered to apply to IT systems and tools to the extent that these constitute 'documents' in their own right, or, at least, to the categories of document contained in such systems or tools.
5. In application of the above-stated understanding of Article 11 of Regulation 1049/2001, the European Ombudsman considers it appropriate for the new Public Register to include references to individual documents. As far as possible, the documents themselves should be directly accessible through the Register. Where justified by considerations of confidentiality or proportionality, or by technical constraints, references in the Public Register may instead be to compilations of documents, here entitled *files*,

Has adopted this decision:

Article 1

A Public Register of documents held by the European Ombudsman shall be established. It shall be accessible through the Institution's website.

Article 2

The primary aim of the Public Register is to help members of the public to exercise their right of access to documents, by providing them with information as to which documents, or categories of documents, the European Ombudsman has in its possession, so that they can apply for access to such documents.

Article 3

The Public Register is additional to the *Cases* section available on the Institution's website⁴. The present decision does not in itself introduce amendments to the rules and practices relating to the publication of documents in that section. The *Cases* section shall be accessible through the online page containing the Public Register.

Article 4

In the interests of efficiency, service-mindedness and the Institution's information policy, documents referred to in the Public Register shall, when reasonably and legally possible, be directly accessible through the Register.

Article 5

For the purposes of this decision,

- (a) the definition of 'document' is the same as the definition in Regulation 1049/2001, or future revisions thereof.
- (b) 'file' means a compilation of documents.

⁴ <http://www.ombudsman.europa.eu/cases/home.faces>



Article 6

When justified by considerations of confidentiality or proportionality, or by technical constraints, references in the register may be to files rather than to the individual documents contained in those files.

Article 7

The Public Register shall be organised by areas of activity not related to the Institution's inquiry activities. The areas of activity shall be outlined in a classification framework, which shall be annexed to the present decision.

The classification framework shall be established and amended from time to time as necessary by decision of the Institution's Secretary-General, following consultation with the Information Officer referred to in Article 17, and with any other relevant person.

The first classification framework shall be established by no later than six months from the date of entry into force of the present decision.

Article 8

The Institution's incoming and outgoing paper correspondence shall be included in the Public Register as documents or in files.

Significant electronic correspondence shall also be included in the Public Register as documents, or in files. Electronic correspondence shall normally, but not exclusively, be regarded as significant if it goes beyond (a) the mere passing-on of information already available to the public, or (b) the provision of advice that is readily available through other relevant sources, notably specialised EU information services.

Article 9

Internally managed IT systems with regularly changing content, such as the Institution's intranet and other databases/software, shall be registered as files. The register shall also contain information on the structure and standard categories of such systems.

Article 10

For reasons of protection of personal data, documents contained in the personal files of members of staff (maintained by the administration in accordance with Article 26 of the Staff Regulations) shall not be included in the Register.

Personal files shall be included in the Public Register as files within the meaning of the definition in Article 6 above, by reference solely to the name of the present or former staff member in question.

These references shall be accompanied by a message briefly explaining the nature of a personal file and the documents that such files may contain.

Article 11

All final versions of internal documents resulting from routine activities or from formal procedures shall be registered as documents or within the relevant files, unless they belong to the category of documents referred to in the first sentence of Article 10 above.



Article 12

Draft documents and files shall be registered if:

- i) The content of the draft is likely to constitute an important interpretation aid in relation to the Ombudsman's activities;
- ii) The content of the draft is important for maintaining a historical record of the Institution's work;
- iii) The main issue in the draft is, for whatever reason, not pursued or finalised through concrete action or decision, but the Institution itself is likely to want to benefit, in the future, from the content of the draft;
- iv) The financial interests of the Union so require.

Article 13

Drafts may be registered for other purposes than the ones set out above, after first consulting the Information Officer referred to in Article 17. In case of doubt, the Information Officer shall refer the issue to the Secretary-General for decision.

Article 14

Responsibility for registering documents lies with the relevant first line manager in question – such as a head of unit, sector, or cabinet – or any other person to whom the Ombudsman or the Secretary-General may assign this responsibility. The responsible persons, and those to whom they may assign relevant day-to-day tasks, may at all times seek advice and assistance from the relevant hierarchy or support services.

Article 15

The Public Register shall be user friendly. In particular, it must be easy to access and fast to use. It must contain a search function that allows for full text searches as well as for searches through categories of documents. The Public Register must also be easy to use for persons with disabilities.

Article 16

The main language of the Public Register is English. However, the detailed classification referred to in Article 7 shall be translated into all the Union's official languages.

Article 17

A member of staff of the Institution's lead service for the operation of the public register shall be designated as Information Officer. The Information Officer shall carry out his or her duties in addition to his or her other tasks and shall exercise a permanent advisory function in all matters relating to the Public Register. In doing so, s/he shall regularly analyse detailed reports that s/he extracts from the IT tools which form the basis of the Public Register's content, and shall make recommendations through his/her line manager as appropriate.

Article 18

The Institution's Registry shall be the lead service in setting up and supervising the operation of the Public Register. By decision of the Secretary-General, this responsibility may be assigned to another service.



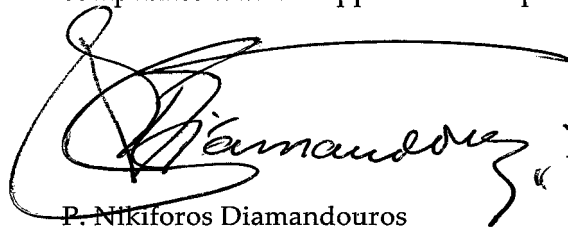
Adoption and entry into force

This decision shall enter into force on the date the European Ombudsman adopts it.

The Public Register shall be made accessible to the public during the year 2012.

Before becoming fully operational, the Public Register shall be subject to one or several phases of appropriate testing.

The establishment and operation of the Public Register shall be carried out in compliance with the applicable data protection legislation.



P. Nikiforos Diamandouros

Strasbourg, 17 -11- 2011