



# Press release No. 5/2013

## Ombudsman welcomes the Commission's disclosure of documents on UK opt-out from Charter of Fundamental Rights

### 4 March 2013

The European Ombudsman investigates complaints about maladministration in the EU institutions and bodies. Any EU citizen, resident, or an enterprise or association in a Member State, can lodge a complaint with the Ombudsman. The Ombudsman offers a fast, flexible and free means of solving problems with the EU administration.

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**The European Ombudsman, P. Nikiforos Diamandouros, has welcomed the European Commission's decision to give access to documents drafted by its services on the UK opt-out from the EU Charter of Fundamental Rights. This follows a complaint from the European Citizen Action Service (ECAS), a Brussels-based NGO, which wanted to find out why UK citizens do not enjoy the same fundamental rights as other EU citizens. The Commission initially rejected the Ombudsman's recommendation to disclose the documents. After the Ombudsman addressed a critical remark to the Commission, ECAS again requested access to the documents. The Commission then reviewed its position and released all the documents.**

#### **Commission reviewed its initial refusal to give access to documents**

ECAS lodged a complaint with the Ombudsman about the Commission's refusal to give access to five documents, drafted by its services and concerning the UK opt-out from the EU Charter of Fundamental Rights. The opt-out was a major issue in the intergovernmental negotiations leading to the adoption of the Lisbon Treaty and the documents were prepared by the Commission in that context.

The Commission explained its refusal by referring to the need to protect both the legal advice it receives, as well as its internal decision-making process.

After inspecting the documents, the Ombudsman concluded that the Commission's arguments for non-disclosure were not convincing. As access to documents is itself one of the fundamental rights guaranteed by the Charter, and as the Commission failed substantively to engage with

certain of his arguments, the Ombudsman strongly criticised it for "a most serious instance of maladministration".

ECAS has now informed the Ombudsman that the Commission reacted to his criticism by releasing all the requested documents.

Mr Diamandouros commented: "Public access to documents concerning how EU law is adopted is key to winning the trust of European citizens. I am therefore delighted that the Commission has finally agreed to give public access to documents concerning how one of the most important EU laws, namely, the Charter of Fundamental Rights, was adopted".

The Ombudsman's critical remark is available at: <http://www.ombudsman.europa.eu/en/cases/decision.faces/en/12439/html.bookmark>