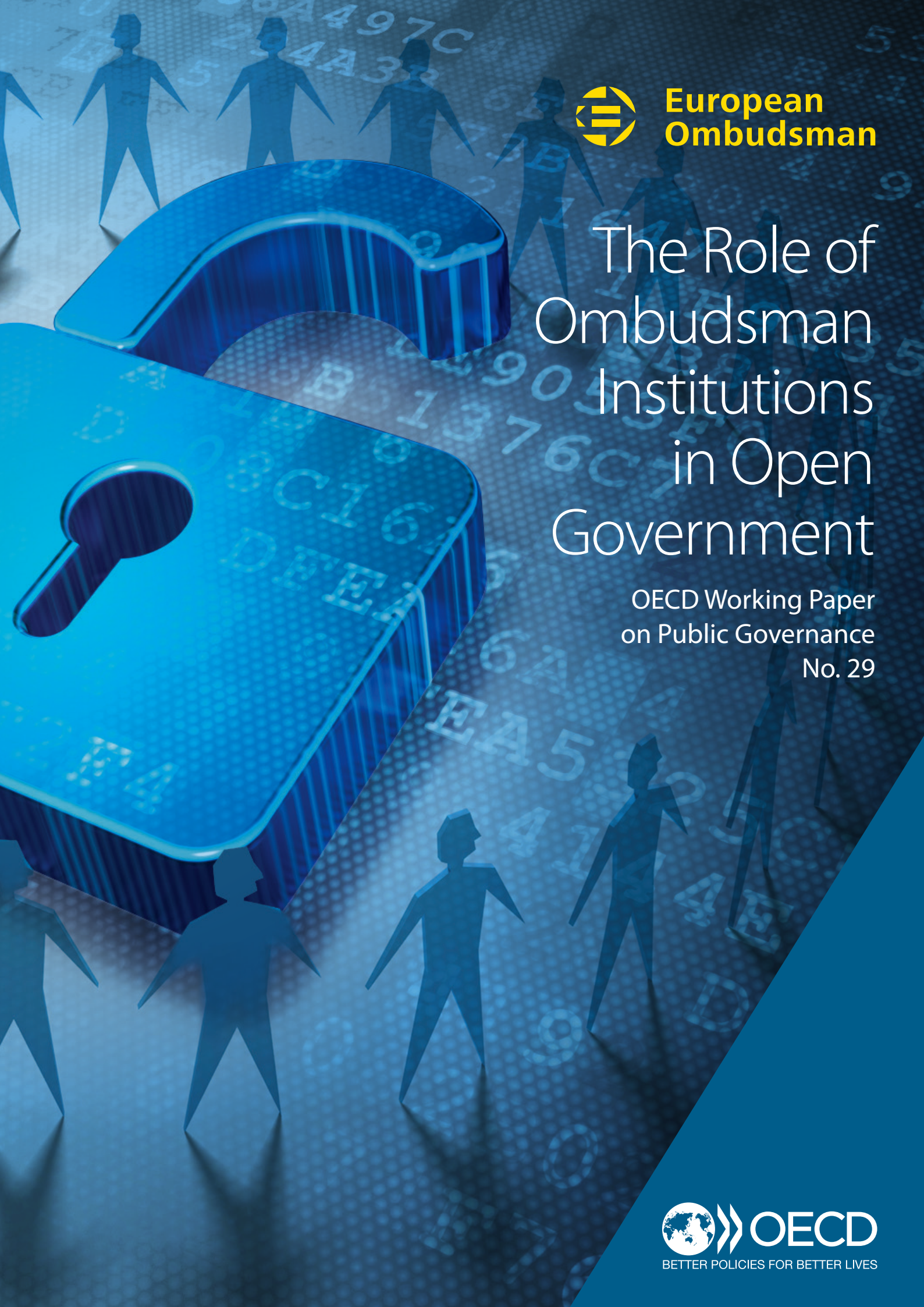


European Ombudsman

The Role of Ombudsman Institutions in Open Government

OECD Working Paper on Public Governance No. 29

OECD

BETTER POLICIES FOR BETTER LIVES

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Authorised for publication by Marcos Bonturi, Director, Public Governance Directorate.

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European Ombudsman

Abstract

Ombudsman institutions (OIs) act as the guardians of citizens' rights and as a mediator between citizens and the public administration. While the very existence of such institutions is rooted in the notion of open government, the role they can play in promoting openness throughout the public administration has not been adequately recognized or exploited. Based on a survey of 94 OIs, this report examines the role they play in open government policies and practices. It also provides recommendations on how, given their privileged contact with both people and governments, OIs can better promote transparency, integrity, accountability, and stakeholder participation; how their role in national open government strategies and initiatives can be strengthened; and how they can be at the heart of a truly open state.

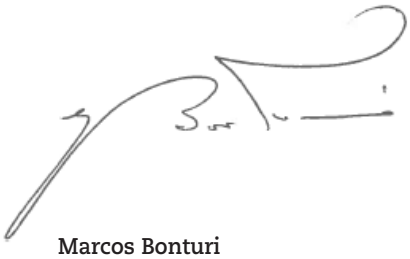
Foreword

In times of low trust in government and public institutions, rising expectations by citizens and declining voter turnout, governments are called upon to renew their interactions with citizens in order to build effective democracies and ensure inclusive growth. Open government is defined by the OECD[1] as "a culture of governance based on the principles of transparency, integrity, accountability and stakeholder participation". As such, it offers countries an approach to restructuring their governance frameworks that puts citizens and their well-being at the heart of policy making.

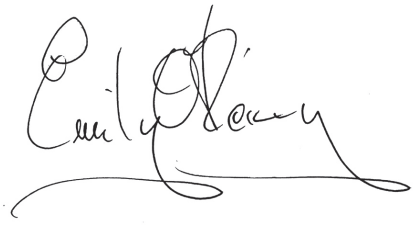
While governments are increasingly granting access to information to the public and involving citizens in policy making and service delivery, these steps are only the beginning of a process to truly transform the government-citizen relationship. The ombudsman, an institution that traditionally interacts closely with citizens and acts as a guardian of citizen rights and as a mediator with the public administration, is a crucial actor in this process. Its privileged contact with citizens as well as its expertise in the functioning of public administration puts it in a unique position to promote the principles of open government, both in its own functioning and in that of the public administration as a whole.

Recognising this opportunity, and building upon the work of the OECD Public Governance Committee and of the European Ombudsman in this area – as well as upon their commitment to the principles of transparency, integrity, accountability and stakeholder participation, the two institutions undertook a data collection on which they developed the present analysis of the role of ombudsman institutions in open government.

Highlighting common trends and challenges, as well as a multitude of innovative practices from all over the world, this report is the first of its kind as it documents the role of ombudsman institutions to the heart of the global open government agenda and provides concrete policy recommendations to strengthen their role in it. Namely, data suggest that an open government culture is part of the "DNA" of ombudsman institutions, but they could use it more strategically in the implementation of their mandates in order to become a role model for the other actors of the public sector. Moreover, ombudsman institutions regularly make important contributions to public administration reforms, based on their expertise and insights about service delivery at national and sectoral level, but they still do not fully exploit their role as champions of open government policies and initiatives. Accordingly, the report ends with a call upon ombudsman institutions, as well as governments, to seize this opportunity for a greater involvement of ombudsman institutions in renewing our democracies, enhancing transparency, accountability, integrity and stakeholder participation for better public services, greater citizens' trust, and more inclusive institutions.



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1. OECD ***Recommendation of the Council on Open Government***, OECD/LEGAL/0438 https://legalinstruments.oecd.org/OECD-LEGAL-0438

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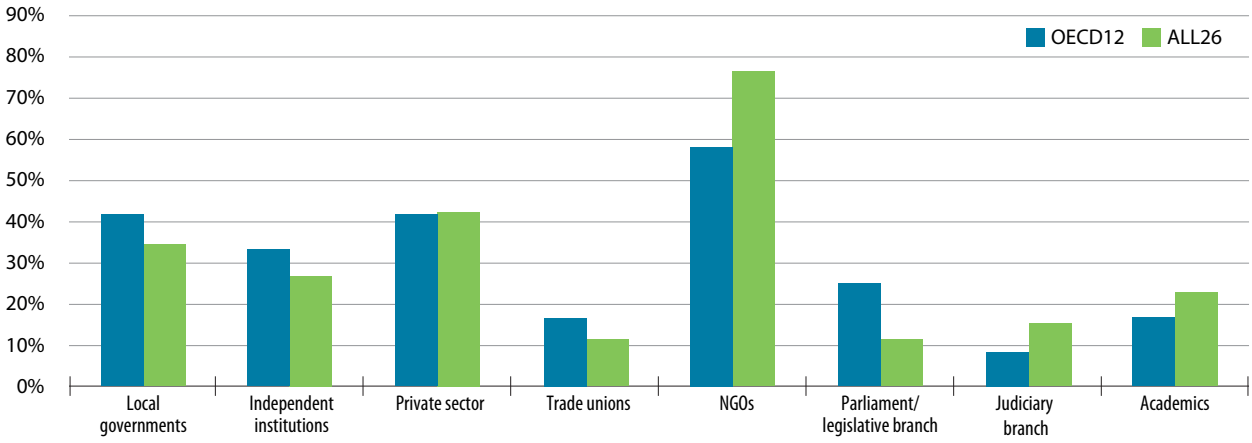
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Introduction

In a context of declining trust in government and rising citizen expectations, governments are being called upon to open-up their policy making cycles to give citizens a more active role, strengthen transparency and accountability and provide better-targeted services. The findings of the OECD (2016a) report *Open Government: The Global Context and the Way Forward* show that many countries are committed to designing and implementing open government initiatives and that they increasingly include a wide range of actors in these efforts in order to promote "*a culture of governance that promotes the principles of transparency, integrity, accountability and stakeholder participation in support of democracy and inclusive growth*" (OECD, 2017).

In fact, almost 30% of governments have included independent institutions such as ombudsman institutions (OIs), in the horizontal mechanisms that they have set-up to co-ordinate their open government strategies and initiatives (see Figure 1.1).

Figure 1.1. **Composition of horizontal co-ordination mechanisms on open government**



Source: OECD (2016a), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, https://doi.org/10.1787/9789264268104-en.

By including the legislative, judiciary, sub-national governments and independent institutions, countries are increasingly moving from the concept of open government to what the OECD has termed an "open state". An open state, according to the OECD Recommendation of the Council on Open Government [C(2017)140] (hereinafter, the Recommendation on Open Government) is:

> "*when the executive, legislature, judiciary, independent public institutions, and all levels of government – recognising their respective roles, prerogatives, and overall independence according to their existing legal and institutional frameworks – collaborate, exploit synergies, and share good practices and lessons learned among themselves and with other stakeholders to promote transparency, integrity, accountability, and stakeholder participation, in support of democracy and inclusive growth.*"

Specifically, the role that OIs can play in open government is twofold. First, as an actor of a country's or territory's institutional framework, OIs can apply open government principles to their own functioning. This can include enhancing the transparency and accountability of their activities, management and budget, but also engaging stakeholders in pursuing their mandate more effectively. Secondly, as an institution that interacts with citizens, oversees if their rights have been respected and provides policy recommendations, OIs can not only contribute to, and inform the country's or territory's open government strategies and initiatives, but they can also monitor and contribute to the implementation of these reforms and hold the government accountable for them (OECD, 2016a).

However, as shown by the data of 93 OIs from 65 countries and territories and the European Ombudsman (including the data of 50 ENO members), until now, the role of OIs has not been recognised on a large scale in the open government movement nor has it been studied properly. Thus, this report examines the role OIs play in this area and provides recommendations on how, given their privileged contact with both the citizenry and the government, OIs can be key actors in promoting transparency, integrity, accountability and stakeholder participation, so as to strengthen their role in open government and to put them at the heart of an open state.

Diverse ombudsman institutions around the world

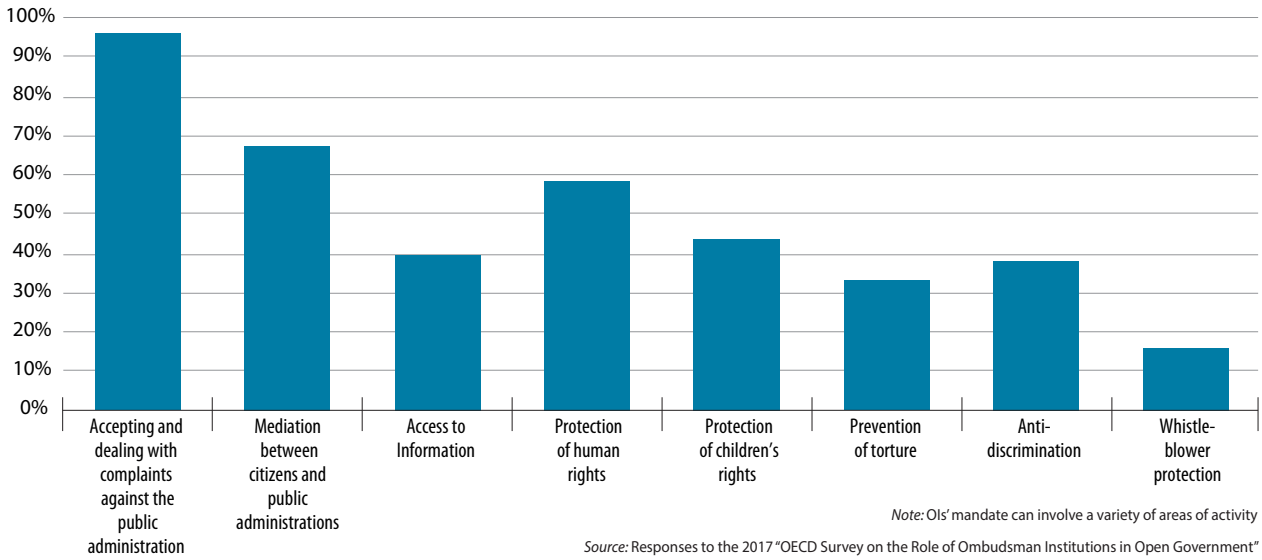
Ombudsman institutions (OIs) have become a common feature of most countries' institutional frameworks. However, their role, mandate and scope of intervention can differ from one country to another as they take into account different political, institutional and historical contexts. Since the establishment of the first ombudsman institution in Sweden in 1809, the mandates of ombudsman institutions have evolved based on countries' specific needs (e.g following civil wars, independence, consolidation of democracy, the evolution of international human rights law etc.).

The term "ombudsman" is an English translation of the Swedish word *umbuds man*, gender-neutral in origin, which means "representative" or "proxy" (International Ombudsman Association, n.d). Back in the 19th century, the figure of the ombudsman was incorporated into the Swedish Constitution and became an important body that provided the Parliament with the necessary means to supervise the conduct of the government administration and of the judiciary (Ombudsman of the Czech Republic, n.d). As countries have transitioned towards the consolidation of democracy and the protection of civil rights, OIs have rapidly spread throughout the world. For instance, in Europe, the number of OIs increased after the Second World War to protect citizens against the violation of their fundamental rights (Ombudsman of the Czech Republic, n.d.). Later, in the 1960's, OIs also expanded through North America and Oceania. In North America, the first OI was created in the United States as the country was exposed to government secrecy and scandal (United States Ombudsman Association, n.d). New Zealand was the first country in its region to establish an OI, which consequently inspired other countries within the Commonwealth (Olsen, 2011). Subsequently, in Asia, OIs began to emerge in the 1980s, while in Latin America, the majority of OIs were created in the 1990s as the region was going through a period of institutional reforms that aimed to enhance and strengthen participation, the rule of law, accountability and democratic governance (Uggla, 2004). African OIs experienced a dramatic increase in the same period, as several African states transitioned towards democratic forms of government (Reif, 2004). Lastly, most OIs in Central and Eastern European countries were established during or after 1990 during their democratisation process.

A WIDE RANGE OF MANDATES CHARACTERISE THE OIS

Countries and territories worldwide, on both national and sub-national levels, have established OIs with a variety of mandates that range from accepting and dealing with complaints against the public administration to safeguarding human rights. The diversity of these mandates (see Figure 2.1) impacts on how and with which stakeholders OIs interact, as well as the issues they investigate and provide policy recommendations on, hence influencing the role that OIs can play in promoting open government principles.

Figure 2.1. **Ombudsman institutions areas of activity according to their mandate**



Note: OIs' mandate can involve a variety of areas of activity

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government"

Core mandate

Findings of the 2017 "OECD Survey on the role of Ombudsman Institutions in Open Government" (hereafter, referred to as the "OECD Survey") reveal that 96% of the OIs participating in the survey accept and deal with citizens' complaints against the public administration and 67% mediate between citizens and the public administration (see Figure 2.1), which is part of the classical function of an OI. They propose recommendations to solve citizens' complaints.

> *"OIs following the classical model often have extensive powers to investigate cases submitted to them. They may work towards mediation of conflicts, but if no solution can be reached, they provide recommendations to the relevant administrative unit. The classical OI has no power of coercion and can only employ 'soft' pressure to get its recommendations adopted. The OI submits an annual activity report to the parliament to draw the latter's attention to remedied grievances" (OECD, 2016a).*

The findings illustrate that the OI's role as the defender of public interest and its capability to intercede in issues that citizens encounter when interacting with the public administration places it in a favourable position to promote open government strategies and initiatives, given its knowledge of the difficulties citizens encounter with the public administration and its role as an intermediary (ibid.).

Human rights, children's rights and prevention of torture mandates

Human rights OIs "are those ombudsman that have been given express human rights protection and/or promotion mandates in their governing legal framework" (Reif, 2004). In some cases, OIs function as a National Human Rights Institution, while in other cases, human rights protection is part of the mandate despite the existence of an official National Human Rights Institution, as is the case of the Greek Ombudsman and the Public Defender of Rights of the Slovak Republic.

More than half of the institutions that participated in the OECD Survey deal with human rights protection issues (59%) and of these respondents 64% also include protection of children's rights (see Figure 2.1). Examples of OIs that include both human rights and children's rights mandates include: the Ombudsperson Institution of Kosovo, the Seimas Ombudsmen's Office of the Republic of Lithuania, the Ombudsman of Madagascar and the Ombudsman of Burkina Faso. Moreover, 6 of the 94 OIs that responded to the OECD Survey have a children's rights mandate but do not have a protection of human rights mandate as is the case for the Ombudsman Committee for Children's Rights of Luxembourg, the Federal Ombudsman of Pakistan, and the Ombudsman of Ivory Coast, among others.

The OECD Survey also reveals that the majority of human rights ombudsman institutions were created after 1980 as a response to democratisation, the expansion of international human rights law and more specifically, the influence of political and social movements that contributed to the establishment of National Human Rights Institutions (Reif, 2011). The responsibilities of these OIs often include receiving complaints alleging human rights violations and, launching investigations related to fundamental rights and civil liberties such as freedom of expression as done by the Spanish Ombudsman, the Human Rights Ombudsman of Guatemala (see Box 2.1), and the Ombudsman of Colombia. Educating and informing the public on human rights, reporting on the general human rights situation in a given country, or territory conducting research and analysis on human rights, and monitoring the implementation of human rights are part of their tasks. OIs with a human rights mandate can thus contribute to open government strategies and initiatives by supporting the respect of basic human rights such as freedom of expression and freedom of the press, which are considered key elements of an enabling legal and policy framework for open government.

Box 2.1. THE HUMAN RIGHTS OMBUDSMAN OF GUATEMALA AND THE RIGHT TO FREEDOM OF EXPRESSION

In 2017, the Human Rights Ombudsman of Guatemala initiated an investigation based on an anonymous complaint against the Secretariat for Social Communication for allegedly violating citizens', journalists', and communicators' right to freedom of expression. The OI determined that the Secretariat was violating human rights, in particular, the right to freedom of expression and free access to information. Moreover, the institution urged the executive to guarantee freedom of the press and implement a government plan to improve the protection of journalists.

Source: Procurador de los Derechos Humanos de Guatemala (2017), Resolución del Procurador de los Derechos Humanos en torno a la denuncia presentada por periodistas de Guatemala sobre limitaciones a la libertad de expresión y libre acceso a las fuentes de información, www.pdh.org.gt/noticias/noticias/resoluci%C3%B3n-del-procurador-de-los-derechos-humanos-en-torno-a-la-denuncia-presentada-por-periodistas-de-guatemala-sobre-limitaciones-a-la-libertad-de-expresi%C3%B3n-y-libre-acceso-a-las-fuentes-de-informaci%C3%B3n.html (accessed 9 July 2018).

Furthermore, 33% of the OIs that responded to the OECD Survey have prevention of torture as part of their mandate (see Figure 2.1), and 81% of those OIs also handle issues regarding the protection of human rights. They are the National Preventive Mechanism as proposed by the Optional Protocol to the UN Convention against Torture (OPCAT). Tasks of OIs whose mandate includes prevention of torture is to handle individual complaints as well as to investigate how the rights of people deprived of their liberty can be safeguarded. In addition to frequent visits to facilities where people are detained, several OIs engage with national authorities as well as civil society and international human rights organisations (Penal Reform International, n.d).

Whistle-blower protection mandate

Some 16% of the 94 institutions surveyed (including the Ombudsman Western Australia, the Office of the Ombudsman of New Zealand, the Commission Against Corruption in Macao, the Office of the Ombudsman of Tonga and the Ombudsman of Madagascar, among others), have listed whistle-blower protection, also understood as *public interest disclosure*[1] by Commonwealth countries, to be part of their mandate. Whistle-blower protection is a gateway for citizens, public officials and business people to report serious wrongdoing including: "unlawful, corrupt or irregular use of public money or resources, conduct that poses a serious risk to public health, safety, the environment or the maintenance of the law, any criminal offence as well as gross negligence or mismanagement by public officials" (Office of the Ombudsman of New Zealand, n.d.). OIs play a pivotal role, facilitating the disclosure and investigation of these wrongdoings in the public administration and furthermore, contribute to building trust in public institutions and the overall democratic process. They are but one type of independent agency that have the capacity to receive complaints on this matter; other institutions are, for example, anti-corruption agencies (OECD, 2016b).

Their specific functions may include providing counselling, orientation and information to citizens and public officials who are willing or have already made a protected disclosure, to promote public awareness and understanding, as well as to monitor its correct operation in order to allow for continuous improvements. Furthermore, several OIs deliver training programmes to public authorities that are in charge of handling public interest disclosures (New South Wales Ombudsman, n.d.). As whistle-blower protection is a pillar of integrity, OIs with this function thereby contribute to improving integrity and thus open government.

Access to information mandate

Access to public sector information is a key pillar of open government and of outmost importance for transparency, integrity, accountability and stakeholder participation. Recognising this, approximately 100 countries or territories worldwide, including 65% of Latin American and the Caribbean (LAC) region countries as well almost all OECD Member countries have passed an access to information (ATI) or freedom of information (FOI) law (OECD, 2016a). While some countries or territories have a dedicated institution that oversees its effective implementation, such as an access to information commission, in other countries or territories, this function is included in the OIs' mandate. In fact, according to the OECD Survey, 39% of OIs report being the official institution responsible for overseeing access to information, which includes the following tasks: receive and review complaints from citizens, monitor compliance with the law (including proactive disclosure), raise awareness among the public and provide advice and deliver recommendations on how to enhance access to information through existing legislation (OECD, 2015). Additionally, 76% of those OIs that serve as the oversight institution of the legal right to access to information mentioned that the nature of their decisions on access to information complaints is recommendatory; only 8% indicated that their decisions are mandatory.[2] Furthermore, the OECD Survey reveals that institutions such as the Public Defender of Rights of the Slovak Republic, the Ombudsman of the Metropolitan Area of Amsterdam (Netherlands) and the Parliamentary Ombudsman of Finland are contacted on issues regarding access to information, even though this is not part of their mandate. Of those OIs whose mandate does not include access to information, 28% indicate receiving complaints on access to information and treating them (with the majority making recommendatory and not mandatory decisions); 37% receive them but then forward them to the competent authority.[3] OIs can also start proceedings related to access to information on their own initiative, can make special reports on the subject, or proactively promote the right, thereby striving for a maximum degree of transparency and proactive disclosure. This is further discussed in Chapter 4.

1. A public interest disclosure (PID) is a disclosure about wrongdoing in the public sector that serves the public interest.

2. n=33, as 37 OIs are responsible for ATI but 4 did not reply to the question (Ombudsman of France, Ombudsman of Burkina Faso, Ombudsman of Madagascar and Moroccan Ombudsman [who only receives complaints on access to administrative documents and emits recommendations that deal with ATI].

3. Two institutions receive complaints and how they treat them depends on the case or they are not the competent authority and consequently refer complainants to other authorities.

Anti-discrimination mandate

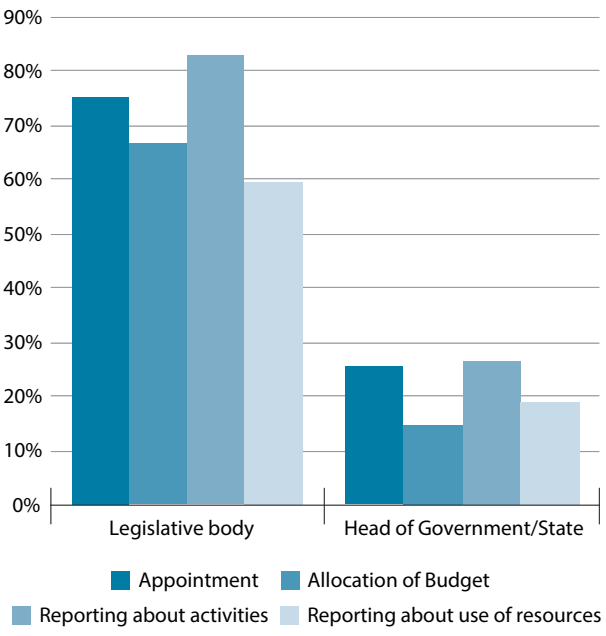
Finally, 38% of OIs have mentioned anti-discrimination issues as being part of their mandate. At the EU level, the European Anti-Discrimination Law solely requires that equality bodies are established on the grounds of race, ethnic origin and gender (Equinet, n.d.). However, several countries or territories have surpassed these requisites and have set up OIs that handle other grounds of discrimination. In particular, age, sexual orientation, religion and disability. The services offered can vary greatly across OIs. OIs can assist citizens concerning different fields of discrimination in employment, education, housing, social protection and healthcare. Ensuring that citizens have equal access to civil service jobs is a protected fundamental right in most OECD Member countries. Making sure that recruitment processes are not discriminatory is a fundamental aspect of open government, for example, as the capacity and skills of public employees will determine the success of open government initiatives (OECD, 2016a). In order to effectively fight against discrimination, OIs have also developed and published anti-discrimination manuals for judges, prosecutors, civil servants and non-governmental organisations (NGOs). Additionally, OIs have performed training sessions for staff members on handling anti-discrimination complaints. Other activities may involve: workshops and awareness campaigns in order to positively influence public and private institutions, as well as civil society (Council of Europe, n.d.).

In many countries or territories, OIs are considered to be one of the most trustworthy and reliable institutions. In many cases, they are the most accessible public institution citizens can find and this may be why a majority (67%) are also contacted on broader issues outside of their mandates.

INSTITUTIONAL ARCHITECTURE AND ANCHORAGE

Out of the 94 OIs that participated in the OECD Survey, 63% have national competency, 36% have regional competency,[4] and 5% have local competency, with some institutions having competency on all three levels.[5] In addition, the European Ombudsman Institution has European competency and the Ombudsman of the Autonomous Province of Trento presents provincial competency. Of the European Network of Ombudsmen (ENO) members participating in the OECD Survey, 40% have regional and 56% national competency. The OIs competency thus affects which level of government they make recommendations to, and therefore which open government agenda they can contribute to (i.e. of the national government, of a municipality etc.). The legitimacy of ombudsman institutions is very much linked to the institutional set-up of these bodies. Historically, OIs have had an institutional connection with the parliament. In fact, the OECD Survey results reveal that 76% of OIs are appointed by parliament (parliament refers to the legislative body at national, regional or local level), 21% by the head of state and 6% by the head of government.[6] Among ENO members, appointment by parliament is even more prevalent, with 94% of institutions indicating that this is the case, while 12% are appointed by the head of state and none by the head of government.[7] The appointment procedure of the ombudsman impacts its ability to be independent. While many countries or territories opt for an institutional anchorage with parliament in order to ensure independence, in some countries the ombudsman is connected with the head of state or government (see Figure 2.2).

Figure 2.2. **Institutional anchorage of ombudsman institutions**



Note: This graph only shows the links with the legislative body and head of government/state. Some OIs are linked with ministries; do not have a separate budget etc. Institutions that are linked with the legislative body and head of government/state are counted in both percentages.

For Allocation of budget: n=93, Ombudsman of France did not reply.

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

4. Canadian provinces are counted as regional for comparative reasons. With regards to the United Kingdom, regional includes Wales and Scotland.

5. Some OIs have several competencies. For example, the Ontario Ombudsman has both local and regional competence. The Ombudsman of Burkina Faso has local, regional and national competence. The Ombudsman of the Republic of Mauritania has regional and national competence. The Human Rights Ombudsman of Guatemala indicated local, regional, national and international competence.

6. It should be noted that the Petitions Committee German Parliament consists of members of parliament, therefore elected by citizens. Few others are appointed by the senate, ministers or an ombudsman appointment committee. Furthermore, some OIs are appointed by the head of state upon approval by parliament.

7. Some ombudsman are appointed by the head of state following approval by parliament.

Furthermore, according to the findings of the OECD Survey, 83% of surveyed respondents affirmed that they report to parliament regarding their institutions' activities such as is the case for the German and Spanish OIs, while only around 27% do report to the head of government or state such as is the case for the Ombudsman of the Czech Republic and the Ombudsman of France (they also report to parliament). The majority of OIs (60%) report to the parliament with regard to the use of their resources, and 19% report to the government or head of state. The other OIs report to other institutions such as ministries and court of audits or do not have a separate budget but their budget is part of the parliament's budget.

In order to perform their tasks properly, OIs must be assured of the financial and human resources needed, while keeping their independence from the branch of government that determines their budget (Reif, 2002). In many cases, OIs act as a supervisory body that monitors the executive, in the interests of the general public. Thus, it is crucial for OIs to be independent (Oosting, 1998). In this regard, for 67% of OIs, their budget is allocated by parliament, while 15% do not have a separate budget; 13% indicate that their budget is allocated by the head of government and 3% by the head of state. For some institutions the budget is approved by the parliament upon suggestion by the government/Ministry of Finance.[8]

With regard to the financial audits of OIs, 45% of the responding institutions reported that either a court of accounts or a supreme audit institution conducts their financial audits. Parliament-linked audits are not very common among OIs, with only 7% stating that the legislative body is responsible. Further, 30% state to have external auditors and 20% state having an internal audit mechanism. Some 15% of responding OIs have no separate budget and 4% report that no audits are conducted. As discussed in Chapter 3 a financial audit is a crucial element for OI transparency and accountability, and thus impacts their ability to be an actor of open government. In addition to the institutional set-up and anchorage of OIs, their ability to fulfil their mandate and be an actor in open government strategies and initiatives depends on the level of development of their country or territory. In fact, the challenges associated with enabling the effective performance of ombudsman institutions vary according to this development.

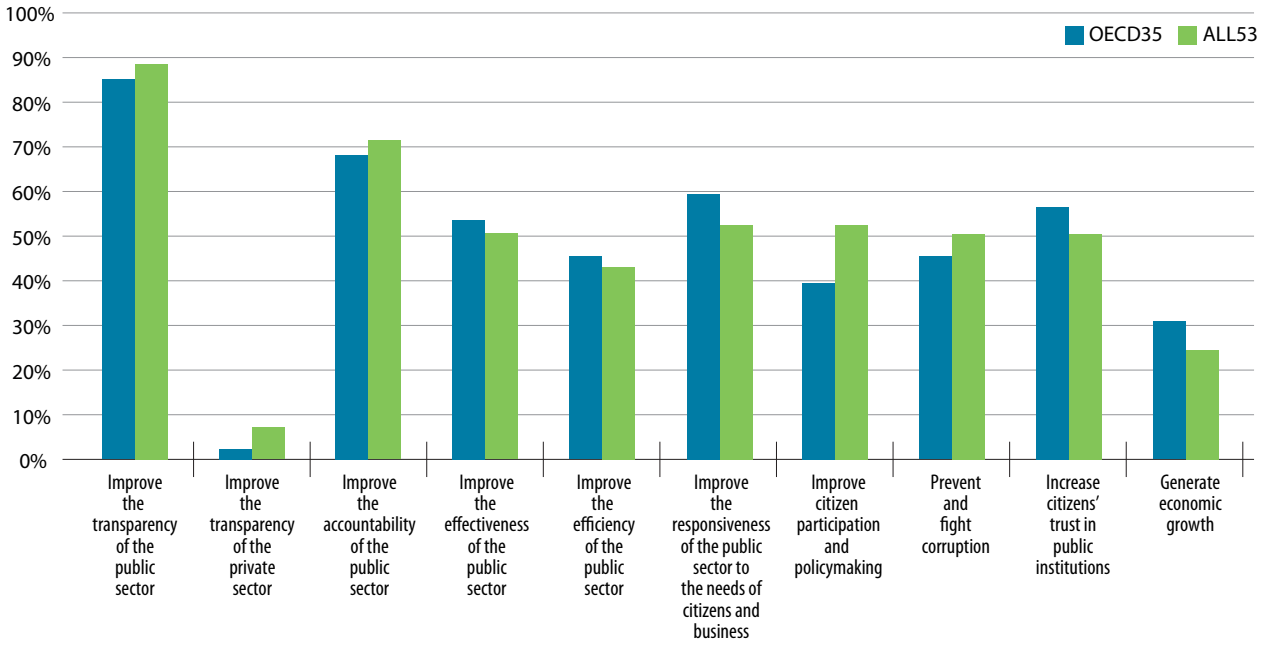
8. n=93, the Ombudsman of France did not reply.

Open government culture of ombudsman institutions

WHY AN OPEN GOVERNMENT CULTURE IN OMBUDSMAN INSTITUTIONS MATTERS

An open government culture refers to the application of the principles of transparency, integrity, accountability and stakeholder participation in an institution's own functioning. The OECD report *Open Government: The Global Context and the Way Forward*, shows that countries choose to implement open government principles mainly to improve the transparency, accountability and responsiveness of the public sector, but also to increase trust, fight corruption, improve citizen participation, and improve the effectiveness and efficiency of the public sector (OECD, 2016a) (see Figure 3.1).

Figure 3.1. **Objectives of countries' open government strategies**



Source: OECD (2016a), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264268104-en

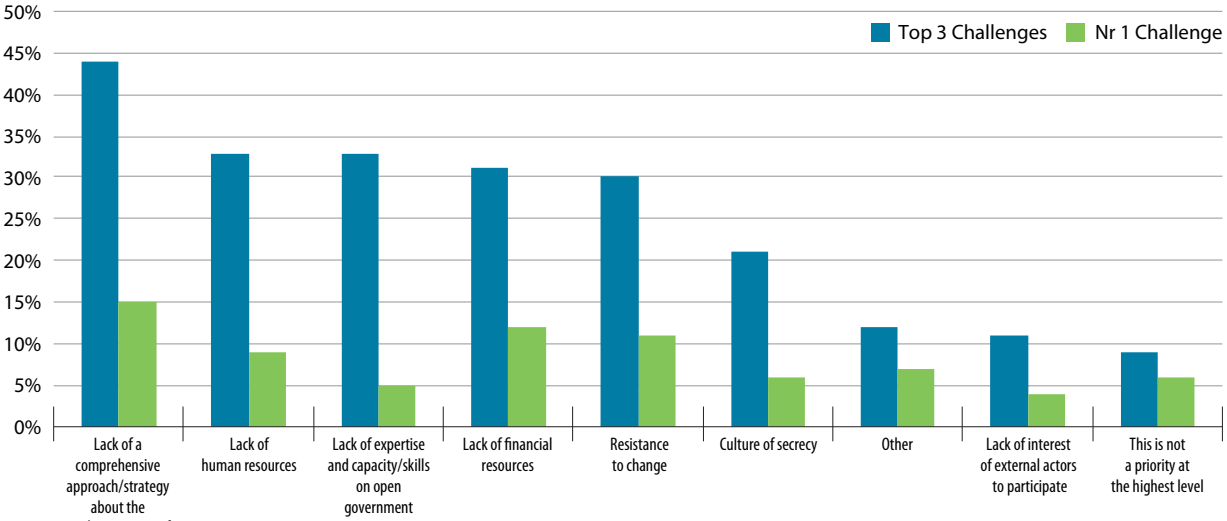
Due to their unique position, as an institution that is traditionally close to citizens as well as given their regular and direct contact with them, open government is an intrinsic part of the OIs' DNA. In this sense, OIs can serve as role models in applying an open government culture to their own functioning, contributing to their efficiency and effectiveness in implementing their mandates and increasing trust in their institutions while making themselves more open, transparent, accountable and responsive.

Furthermore, more strategic and wider participation of stakeholders – including civil society, academia, citizens beyond those who submit complaints – could support OIs in strengthening the accuracy and relevance of their recommendations and provide ideas for alternative solutions. This chapter assesses the extent to which OIs act according to open government principles and provides good practice with regard to establishing an open government culture within OIs.

PROMOTING AN OPEN GOVERNMENT CULTURE IN OIS

While open government principles are part of OIs' DNA, there are several challenges to promoting an open government culture (see Figure 3.2). It should be noted however, that a few institutions do not consider any of the below to be challenges while a few other institutions do not consider the question to be applicable to their mandate/institution.

Figure 3.2. **Challenges to promoting an open government culture within OIs**



Note: n=75, as ten OIs do not consider any of them to be challenges, three do not consider it to be applicable and six did not reply.

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

The lack of a comprehensive strategy for the implementation of open government principles is the most important challenge cited, among all OIs as well as among the European Network of Ombudsmen (ENO) members. In this sense, the Recommendation on Open Government calls upon adherents to develop, adopt and implement open government strategies in order to promote the principles of transparency, integrity, accountability and stakeholder participation in designing and delivering public policies and services that respond to citizens' needs and contribute to restore their trust in public institutions. In addition, a third of the OIs raised the lack of human and financial resources as challenges to promoting an open government culture within OIs. The Recommendation further states that adequate human, financial, and technical resources, a supportive organisational culture and open government literacy are necessary to promote an open government culture.

In order to support an open government culture in OIs, a strategy and/or guidelines on open government and/ or participation could define and set key open government initiatives, together with short, medium and long-term goals and indicators. In this way, a strategy could guide the institution's work by aligning vision, objectives and activities with resources and provide for monitoring and evaluation (M&E) to measure their impact. While no OI participating in the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government" (hereafter, referred to as the "OECD Survey") has a full-fledged open government strategy, 46% of OIs (43% of ENO members) indicate having a strategy for their open government culture and participation practices.[1] These strategies include for example, an outreach strategy, the integration of open government principles in other strategies (internal policies, the overall strategy of the institution etc.), awareness and accessibility programmes, service charters or a communication strategy, among others (see Box 3.1).

While not having a strategy specific to its institution, the Western Cape Police Ombudsman (South Africa) complies with the Batho Pele Principles, principles that apply to all government employees. These principles include open government principles such as openness, transparency and consultation. Another approach is to set-up a dedicated unit as did the Irish Ombudsman which organises its stakeholder engagement through the Quality, Stakeholder Engagement and Communications (QSEC) Unit. This unit is responsible for communication, stakeholder engagement and quality of casework. It publishes the casebook, organises outreach events and supports the engagement of particular actors, such as asylum seekers and refugees. It also manages publications, media conferences and social media.

These good practices show that some OIs recognise open government principles and initiatives as being at the heart of their work and strategic for the achievement of their mandates. **All OIs could consider developing open government strategies, ideally encompassing all open government principles, which would provide strategic guidance to developing open government practices and initiatives of the institution to strengthen their transparency, integrity, accountability and stakeholders' participation.** Such a strategy would provide a common understanding of the objectives and would

1. n=90, as three did not reply (Ombudsman of Madagascar, Ombudsman of the Republic of Mauritania, Ombudsman of France) and the Ombudsman of Metropolitan Area of Amsterdam (Netherlands) stated that the question is not applicable.

Box 3.1. **OMBUDSMAN INSTITUTIONS' STRATEGIES ON OPEN GOVERNMENT PRINCIPLES**

The **Public Service Ombudsman for Wales** developed an Outreach Strategy and Work Programme 2016/17 with the following objectives 1) awareness (about the institution); 2) engagement (through two-way communication); and 3) accessibility (of the services for all). The strategy puts particular focus on engaging key actors such as voluntary/advocacy groups and organisations as well as marginalised groups (e.g. the lesbian, gay, bisexual, and transgender [LGBT] community, people with disabilities and people in deprived areas) and proposes a variety of tools, digital (website, social media, blogs) and non-digital (conferences, meetings, roadshows, training, focus groups, press, advertising, organisational literature). The strategy also includes measurements of success.

The **Ombudsman Western Australia** has an awareness and accessibility programme that aims to strengthen awareness of the institution and access to its services. It also includes a focus on engaging stakeholders, in particular regional and Aboriginal Western Australians; children and young people; and people in prisons and detention centres. The institution engages stakeholders based on a framework that includes the following steps:

- Identify the type of information (including data) and stakeholder consultation that is required.
- Identify the relevant stakeholders.
- Develop a stakeholder consultation strategy that aims to maximise information gathering according to the different stakeholders involved.
- Identify the timeline for the consultation process.
- Plan the consultation in view of available resources and budget.

The **Ombudsperson Institution of Kosovo'**s Public and Media Relations Strategy 2016-2018 outlines the target audience and objectives of the communication and information work of the institution, as it considers this work as a key pillar of transparency and accountability. The target audience includes citizens, media and civil society, among others. Objectives include "enhancing transparency and accountability" and "strengthening co-operation with civil society". Each objective includes expected outcomes and indicators.

Other OIs have included open government principles within their overall strategies. The **European Ombudsman**'s strategy "Towards 2019" for example encourages an internal culture of transparency and states that their "mission is to serve democracy by working with the institutions of the European Union to create a more effective, accountable, transparent and ethical administration. The **Moroccan Ombudsman** also includes the principles of transparency, access to information and citizen participation in its strategy. The **Human Rights Ombudsman of Guatemala**'s strategy 2017-2020 includes transparency of its officials' activities as a principle and transparency and fighting corruption as one of the four strategic priorities. The **New South Wales Ombudsman (Australia)** includes "wanting fair, accountable and responsive administrative practice and service delivery" in its Statement of Corporate Purpose as an aim. The mission of the **Ontario Ombudsman (Canada)** includes "promoting fairness, accountability and transparency in the public sector" while the vision aims for "a public sector that serves citizens in a way that is fair, accountable and transparent."

The **Portuguese Ombudsman** also has internal norms on transparency and accountability while the **United Kingdom Parliamentary and Health Service Ombudsman** included "being open and accountable" in its Principles of Good Complaint Handling, Good Administration and Remedy. The **Parliamentary Ombudsman of Norway** has internal procedural guidelines with a specific chapter on transparency and access to information providing guidance on the official journal, public record keeping and information disclosure.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

also allow external stakeholders to know what to expect. It would further strengthen the OIs ' role model function. **In addition, a dedicated unit or person could be responsible for elaborating, co-ordinating and overseeing the strategy's implementation.** Furthermore, while OIs recognise that capacity, human resources and resistance to change are challenges for an open government culture (see Figure 3.2), only 38% of the OIs (38% of ENO members) report providing training to their staff on the transparency and participation policies of their institution. This is the case despite, as discussed, a general existence of a culture of openness and the fact that most institutions actively engage with a wide variety of stakeholders. Some OIs provide good practices in terms of training for staff on open government which could serve as an inspiration. These include the training courses available for staff of the Ombudsman of the Autonomous Province of Trento (Italy) who can voluntarily follow training courses on open data, open government, access to information organised by the University of Province. The Catalan Ombudsman (Spain) has trained its staff to handle complaints related to transparency as the Ombudsman of the Region of Piemonte (Italy) has also done. The Argentinian Ombudsman staff can participate in meetings and training courses organised by the government, while the Ombudsman Western Australia has training sessions on accountable and ethical decision making which includes the institution's transparency obligations. The European Ombudsman provides induction training on its transparency and participation policies. **OIs could consider including sessions on open government in their (induction) training for staff as well as establishing partnerships with universities, civil society and/or the government to provide continuous training in this field.**

PROMOTING OPEN GOVERNMENT PRINCIPLES WITHIN OIS

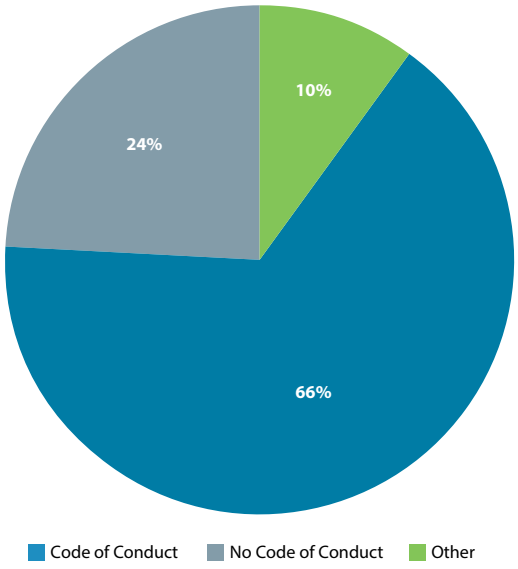
Transparency and integrity policies and practices of OIs' aim to enhance the institutions openness and thereby contribute to accountability. In this sense, this report analyses the policies aimed at strengthening integrity through codes of ethics, asset and conflict of interest declarations and measures to manage risks of conflict of interest as well as the proactive disclosure of key information related to the functioning of OIs, such as their strategic plan, audit reports and their investigations.

Promoting integrity

The OECD Recommendation of the Council on Public Integrity [C(2017)5] promotes a culture of public integrity and effective accountability through a coherent and comprehensive integrity system. It recommends to "set high standards of conduct for public officials" through, for example, codes of ethics or codes of conduct and in "communicating public sector values and standards internally in public sector organisations and externally." Codes of conduct are also recognised as an essential element for integrity by the 2004 United Nations Convention against Corruption (UNCAC). The UNCAC also recognises asset and conflict of interest declarations as a key pillar of an integrity system as they contribute to the detection of corrupt practices and can flag possible conflicts of interests.

The existence of a code of conduct or code of ethics is common among OIs with 66% of the institutions participating in the OECD Survey (60% of ENO members) indicating that they have such a code[2] (see Figure 3.3). Further, 43% make the code publicly available, 16% upon request, 7% have a code for internal use and 24% indicate not having a code. The remaining OIs indicate that the code of conduct is in progress, that (staff) regulations include some aspects on ethical behaviour or that they have a values charter. Among those who make their code publicly available, the majority, have a code specific to their institution,[3] while some use the code of conduct/ethics applicable to the whole public sector and others the European Code of Good Administrative Conduct. While the majority of OIs (around 2/3) participating in the OECD Survey have in place a code of conduct or a code of ethics, there is room to strengthen these policies and harmonise them.

Figure 3.3. **Existence of codes of ethics/conduct among OIs**



Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

All OIs could develop codes of conduct to strengthen the trust in the institution, its legitimacy as well as its ability to be an actor for open government and ensure a common definition among its entire staff of what conduct is expected. The code of conduct could be co-created by employees to ensure a higher degree of buy-in.

Similarly, the majority of OIs (67% and 66% of ENO members) require their staff or senior staff to submit asset and/or conflict of interest declarations (see Figure 3.4). Further, 32% of OIs (40% of ENO members) indicate that declarations are publicly available, such as the Estonian Chancellor of Justice and Ombudsman of the Republic of Latvia; 7% (6% of ENO members) indicate that they are available upon request; 28% (20% of ENO members) indicate that they are not publicly available; and 33% (34% of ENO members) indicate that there are no declarations required. Among the institutions that require declarations, almost half refer to asset declarations and half to conflict of interest declarations. It should be noted that around 25% require both, asset and conflict of interest declarations. Almost half of the institutions that require declarations request all their staff to declare, for almost one-third this pertains to the Ombudsman and senior staff only, while few require declarations from the Ombudsman only. In addition, some OIs have put in place practices and tools to mitigate and manage the risks of any potential or actual conflict of interest of staff, such as a policy on conflict of interest, security settings in the case management system so that when a conflict of interest arises the staff abstains from treating the case, registers of conflicts, gifts etc., induction training on the topic, prohibitions to hold other functions in parallel and/or dialogue with superiors in case of conflict of interest.

2. Very few institutions refer to a service charter, which is a document containing information about the services offered by the OIs and how citizens can access those services.

3. Note about the Petitions Committee German Parliament. The code refers to all parliamentarians and not only the petition committee members.

Similarly, as with code of conducts, all OIs could develop guidelines and standards on asset and conflict of interest declarations as well as on managing risks of conflict of interest. Exchange of best practices and lessons learned through the various OI networks could furthermore promote the effective implementation of integrity standards.

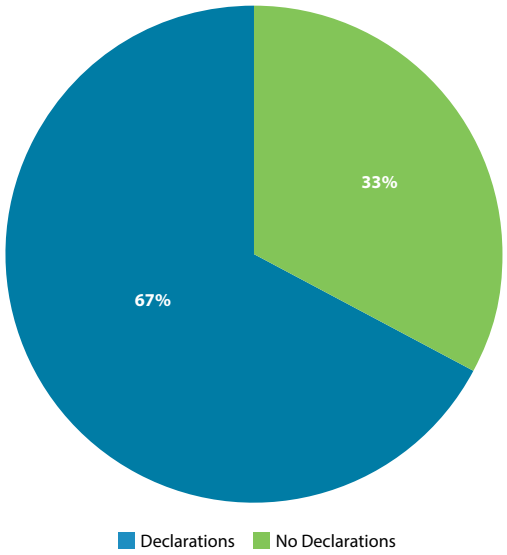
Transparency and the communication policies/ practices of OIs

An institution's transparency does not only increase its openness and accountability, but equally serves to make its mandate and work known and thereby better understood by all stakeholders – and especially by citizens. OIs can strengthen transparency in publishing the document guiding their work (i.e. vision/ mission, strategy/action plan), their finances (i.e. audit report) as well as the outcomes of their work (recommendations and complaint cases). The communication policies and practices they employ further affects how widely this information can be disseminated and which public is reached.

An institution's vision/mission, strategy and/or action plan provides an insight into the objectives of an institution and thereby allows stakeholders to hold the institution accountable. At the same time, it informs citizens and the government about what the institution aims to achieve, creating greater clarity and transparency. While a vision/mission only includes a statement about what the future will or could be like and the aim/ambition of the institution, a strategy/action plan provides more details and includes objectives, activities and indicators to measure the impact of the policy. The results of the OECD Survey show that 72% of the OIs that responded to the question[4] (65% of ENO members) that their vision/strategy/ action plan is publicly available.

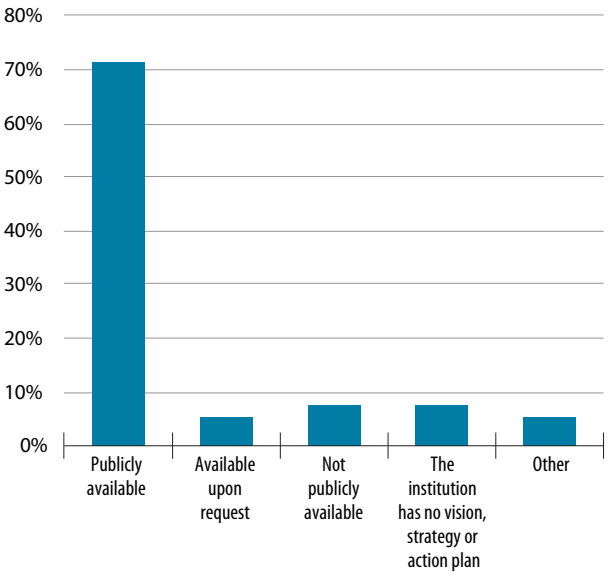
However, the OIs indicate a variety of documents. Around one-third of those making the information publicly available publish a strategic plan/strategy, such as the Québec Ombudsman (Canada), the Ombudsman of the Czech Republic, the Irish Ombudsman and the Parliamentary Ombudsman of Norway. Other institutions refer to their vision/mission statement, some to their "About us" page or their website, some to their statement of corporate purpose, and particularly several Italian and Spanish institutions refer to a service charter which is a document containing information about the services offered by the OIs and how citizens can access those services. Very few OIs (5%) indicate that their vision, strategy and/or action plan is available upon request, if this is the case, then access is attained mainly through a simple request to the office. Others (8%) indicate that they are not available to the public, stating for example that it is for internal use only. Finally, very few OIs (8%) do not have a vision, strategy and/or action plan[5] (see Figure 3.5). While a transparency culture is widespread, **all OIs could systematically proactively publish key information about their institution, including the vision, mission and ideally the strategic action plan.**

Figure 3.4. **Existence of asset and/or conflict of interest declarations among OIs**



Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Figure 3.5. **Publication of the ombudsman institution's vision/mission, strategy and/or action plan**



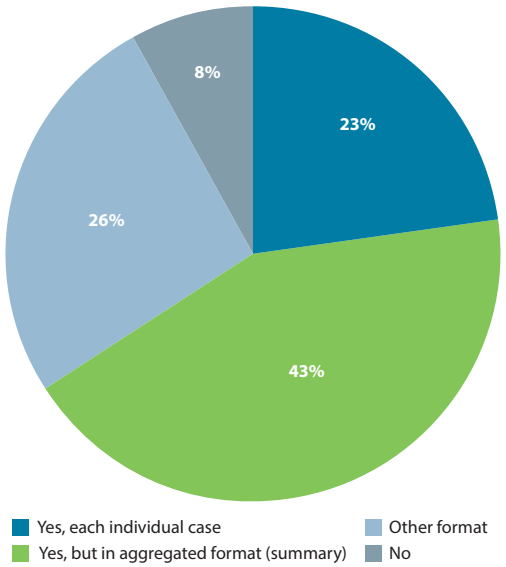
Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

4. The Greek Ombudsman and Ombudsman Committee for Children's Rights of Luxembourg did not reply.

5. It should be noted that 2% did not reply and 5% chose "other" referring for example to their legal foundation.

Another means to strengthen transparency is through the publication of financial audit reports. The financial audit of an institution compares what was spent and achieved with what was initially planned, providing insights into the functioning of an institution. Accordingly, the International Budget Partnership considers the publication of the audit report as one of the key aspects of budget transparency. Of the 81% of the OIs that reported being audited,[6] 65% make these audits publicly available, while for 24% they are for internal use only. Others indicate that the results are available to the parliament. As a role model for open government practices, **OIs could consider systematically publishing their financial audit reports in an easily understandable format. To do so, they could co-operate with civil society.**

Figure 3.6. **Publication of investigations among OIs**



Note: n=92, Ombudsman of France and Ombudsman of Madagascar did not reply

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

The publication of OIs' recommendations and investigations is also extremely important, as not only does doing so allows the public to know about their work and their decisions, but also provides information about the functioning of the public administration that is subject to their investigations thus providing greater transparency. Overall, 92% of the institutions (96% of ENO members) publish the results of their investigations. However this is done in different ways: 23% publish each individual case; 43% publish them in an aggregated format; and 26% publish them in another format which can include summary reports (which also illustrate selected key individual cases (see Figure 3.6).[7]

OIs could aim for maximum transparency about their cases and recommendations while respecting privacy and data protection rights, so as to strengthen the transparency of the public administration. Some OIs, as illustrated in Box 3.2 systematically publish the complaint cases they deal with. This also enables citizens to investigate the outcome of similar cases before submitting their own complaints to the institution, thereby empowering them to be aware of their rights. This is for example the case of the Irish Ombudsman and the Ombudsman of the Czech Republic.

Publication of key information of OIs is a first step as it aims to inform stakeholders (see the definition in the section on stakeholder participation among OIs) and represents a means of one-way communication. All OIs participating in the OECD Survey do communicate their decisions and recommendations through one-way communication channels, such as publication on the institution's website (85%), regular reports (85%) and special reports (69%).
Some OIs also communicate using two-way channels, such as a presentation at parliamentary sessions (53%) allowing a regular engagement with the legislative, engaging with the media, through communication with traditional media (57%), organising press conferences (51%) and/or social media (53%). Newsletters and seminars or thematic conferences are less common (see Figure 3.7).

6. It should be noted that 4% are not audited and 15% do not have their own separate budget, thus no dedicated audits are conducted.

7. n=92, Ombudsman of France and the Ombudsman of Burkina Faso did not reply.

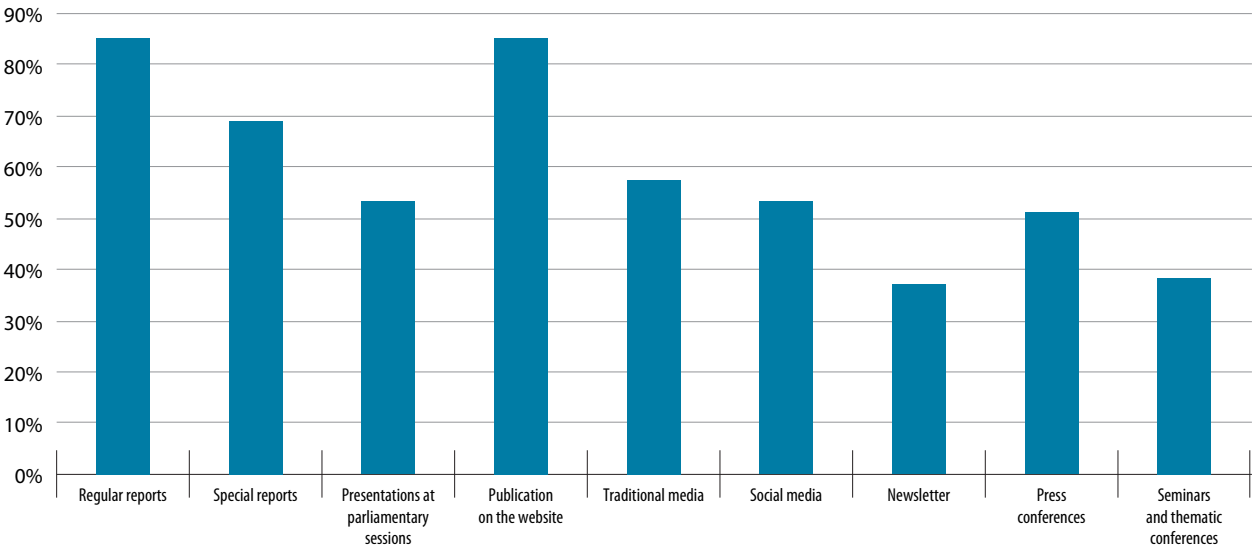
Box 3.2. PUBLICATION OF INVESTIGATIONS DATA BASES IN SELECTED OIS

The **Irish Ombudsman** publishes on a quarterly basis on its website a casebook (www.ombudsman.ie/en/case-studies/casebook) which includes the complaints (upheld and not upheld) the institution has dealt with. Citizens or any other stakeholder can subscribe to the casebook, thereby receiving automatic notification of new publications. Currently, the institution has 2500 subscribers. The casebooks are organised according to different areas of complaint (agriculture, education, etc.) and also include special issues on different topics (local authority, etc.).

The **Ombudsman of the Czech Republic** in addition to publishing its cases in the quarterly and annual reports has a search engine where individual cases can be found (http://eso.ochrance.cz/). The data is however anonymised. Furthermore, the institution publishes press releases about some cases.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Figure 3.7. **Channels used by OIs to communicate their decisions and recommendations**

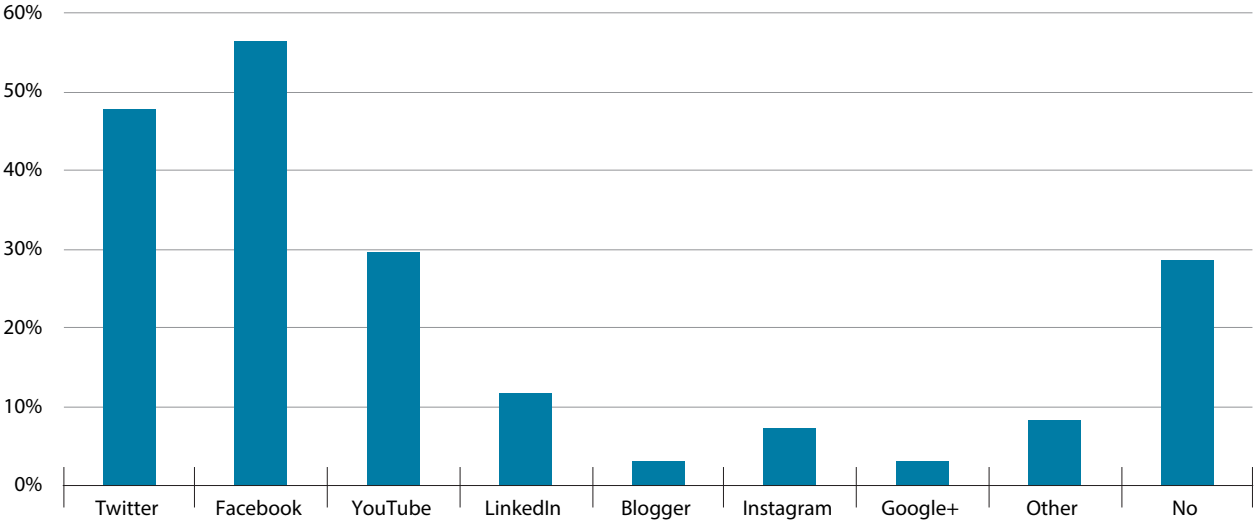


Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

OIs are using a variety of channels to communicate their findings and recommendations. **They could, however, consider strengthening their efforts in two-way communication, adopting innovative tools to use communication to engage with their audience.**

As stated, OIs use social media to communicate decisions, but also for announcements, activities and to answer questions. In an age of digital transformation, public institutions are called upon to communicate with citizens through the channels they use most – among which are social media -, while "not being present" on social media can be a lost opportunity. Some 71% of respondent OIs (70% of ENO members) are on social media. Facebook (57%), Twitter (48%), and YouTube (30%) are the most important platforms (see Figure 3.8). While each social media platform has its own features and opportunities and its own audience, Facebook and Twitter which are the most commonly used ones among OIs, provide platforms for engagement and two-way communication. OIs report that Twitter is particularly useful to engage with journalists and influencers while Facebook provides a platform to interact with the general public.

Figure 3.8. **Social media presence of OIs**



Note: Others includes WhatsApp, Flickr, Periscope, SoundCloud, Slideshare, Pinterest, Medium

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Despite these opportunities to interact more easily with citizens and to widely disseminate recommendations, 29% of OIs are not on social media. The fear of negative reactions on these platforms as well as the lack of adequate skills to appropriately use them are among the reasons cited by OIs for not using social media. **OIs could consider expanding their use of social media to increase their reach in the media and among influencers as well as to engage with a wider audience. Social media use should be based on the importance of the specific social media platforms in the respective constituency of the OI and be combined with training for the staff handling social media presence.**

Public perception surveys

Another mechanism for OIs to consult stakeholders is through public perception surveys, which provide an avenue to assess the public's opinion about the OI and their awareness about the OI's mandate. This allows for better targeting awareness and information campaigns to ensure that all categories of citizens can be reached and be enabled to benefit from the OIs' services.

Some 48% of the OIs that replied to the OECD Survey (54% of ENO members) have conducted a public perception survey. Of those almost half have conducted a user/customer survey (i.e. a survey directed at testing the level of satisfaction with the service) and half a public opinion survey specific to their institution, aimed at understanding the awareness level and perception about their office. Few refer to a general public opinion survey aimed at testing the overall level of trust/confidence in public institutions. **Systematic use of public perception surveys could enable OIs to better understand the public's opinion about them, thereby enabling them to improve their services and to open up their institution to the needs of citizens.** As Box 3.3 illustrates, some OIs have implemented comprehensive public perception surveys.

STAKEHOLDER PARTICIPATION AMONG OIS

According to the Recommendation on Open Government, stakeholder participation includes "all the ways in which stakeholders can be involved in the policy cycle and in service design and delivery." Stakeholder refers to "any interested and/or affected party, including individuals, regardless of their age, gender, sexual orientation, religious and political affiliations; and institutions and organisations, whether governmental or non-governmental, from civil society, academia, the media or the private sector."

The objectives and benefits of stakeholder participation are multiple and can include enhancing transparency, accessing the public's knowledge, increasing support and compliance for policies and anticipating impact among others (OECD, 2012). OIs are in contact with stakeholders through their regular activity with citizens who submit complaints to their offices. However, beyond this interaction with citizens, OIs can opt for a stakeholder participation culture, which is essential for ensuring inclusive policy-making, and which can be crucial for a more active role of OIs in influencing public policy.

Some 90% of the OIs participating in the OECD Survey (84% of ENO members) indicated that they interact with other actors to promote and fulfil their institutional mandate. For these institutions, the most important objectives are to promote the role of the OIs, create awareness about its existence (90%) and increase citizens' use of their services (79%). This reflects an approach that focuses primarily on one-way communication. However, a majority (71%) also recognise the benefits that stakeholder participation can bring to improve their ability to analyse and detect systemic problems. Involving stakeholders to improve the impact of the OIs on policy making (i.e. in strengthening the implementation of their recommendations and impact of their work) and to develop the OIs' activities is less common (around 50% each) (see Figure 3.9).

The findings thus show rather an inward-looking approach, focused on raising awareness on the scope of the mandate and on the institution's services. **OIs could use stakeholder participation more effectively to increase their impact and involvement in public governance, namely by ensuring that participation activities are targeted at strengthening the impact and reach of their recommendations.**

Box 3.3. **PUBLIC PERCEPTION SURVEYS CARRIED OUT BY OIS**

Some OIs conduct public perception surveys in order to assess the public's awareness of the institution and its accessibility, while others have conducted surveys with the users of their service with the aim of improving their work.

In 2015 and for the fifth time, the **Austrian Ombudsman Board (AOB)** initiated a survey aimed at assessing the public's opinion about the institution. It focused on the following topics:

- recognition of the Austrian Ombudsman Board (AOB)
- state of knowledge about its areas of responsibility
- the image of the AOB
- making contact with the AOB.
- the institution's authority.

The questionnaire revealed that 70% of those who had been interviewed knew about the existence of the ombudsman, largely due to the media and more specifically, due to the television programme, "Advocate for the People" (see Box 3.4). Regarding the AOB's image, its "citizen friendliness" and its "commitment to citizens" are perceived as particularly positive. Approximately 75% of the respondents would consider contacting the AOB in the case of doubts or enquiries. Moreover, respondents had a clear understanding of the institutions' responsibilities and requested that the institutions' competences be enlarged, particularly in the fields of monitoring and public service delivery.

Similarly, the **Seimas Ombudsmen's Office of the Republic of Lithuania** has conducted public perception surveys on a yearly basis in order to assess whether or not citizens are aware of the institutions role and areas of activity. It revealed that knowledge about the institution's role was increasing with 43% of the population being aware of the OI's role to protect human rights in 2015, in contrast to 24% in 2012. Thanks to the survey, the Seimas Ombudsmen's Office of the Republic of Lithuania also learned which group of citizens were less aware of the institution's role and directed their awareness campaigns towards those particular groups.

In 2010, the **Québec Ombudsman (Canada)** organised focus groups among a wide range of citizens in the region of Quebec, in order to measure their knowledge of the institution's activities, as well as their personal opinion and the effectiveness of the institution's communication methods. The results revealed that the majority of participants were not aware of the institution's existence and were reluctant to use their services due to difficulties in administrative procedures and a general distrust in public institutions. Thus, in their communications, the institution underlined easy access to their services as well as their impartial and independent nature. Moreover, the Ombudsman created a new website where they included secure online complaint forms and assessed the satisfaction of citizens who had used its services.

Focusing on the users of their services instead of the perception of the general public, the **Public Services Ombudsman for Wales (United Kingdom)** conducted 65 face-to-face interviews and phone calls for a customer attitudes study during 2010 and 2011. The aim of this study was to: establish initial contact with citizens; assess users' perception of the decisions adopted by the Ombudsman; as well as their general satisfaction. Throughout the interviews, users were also asked how the services could be improved. Several suggestions included: more face-to-face contact; stricter time limits for responses from public bodies; extending investigations beyond the original complaint; amplifying the information available on the Ombudsman's role and enhancing the advertisement of its functions.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Participation of stakeholders can occur at different levels with more or less active engagement. According to the Recommendation on Open Government, these include:

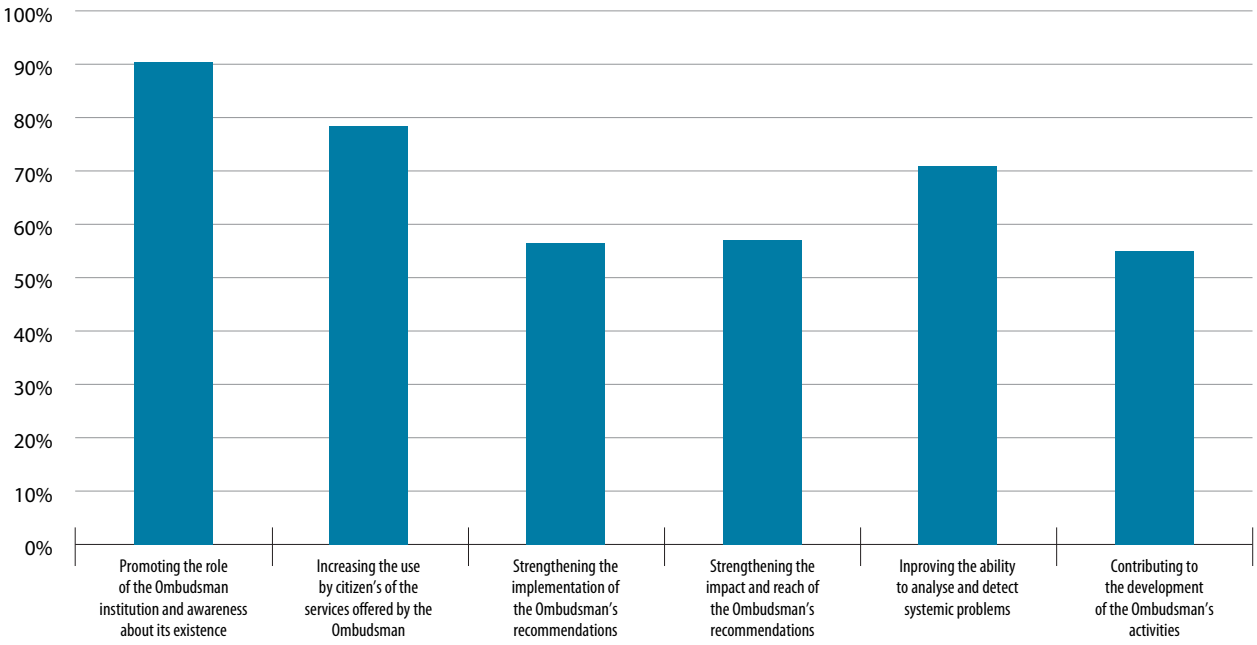
- **Information**: An initial level of participation characterised by a one-way relationship in which the government produces and delivers information to stakeholders. It covers both on-demand provision of information and "proactive" measures by the government to disseminate information.

- **Consultation**: A more advanced level of participation that entails a two-way relationship in which stakeholders provide feedback to the government and vice-versa. It is based on the prior definition of the issue for which views are being sought and requires the provision of relevant information, in addition to feedback on the outcomes of the process.

- **Engagement**: When stakeholders are given the opportunity and the necessary resources (e.g. information, data and digital tools) to collaborate during all phases of the policy-cycle and in the service design and delivery.

Of the 90% of OIs that do engage stakeholders, nearly all institutions (88%) share information, while 67% consult and just over half (58%) collaborate/engage with stakeholders (see Figure 3.10).

Figure 3.9. **Objectives of stakeholder participation among OIs**

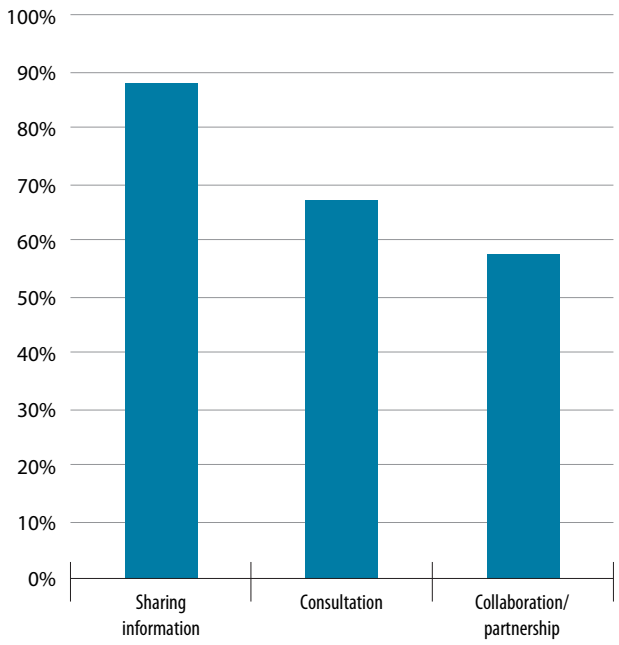


Note: n=84, as nine OIs do not engage stakeholders and the Ombudsman Committee for Children's Rights of Luxembourg did not reply

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

The examples of stakeholder participation (see Box 3.4) show that information practices allow the OI to widely inform about its work and the impact on citizens' lives, whereas consultation provides an opportunity to better identify systemic problems, to enhance policy recommendations or develop a better understanding of issues. Collaboration or engagement allows OIs to tap into the expertise and resources of partners (non-governmental organisations [NGOs] and other actors) to conduct joint projects for example in the field of education and awareness raising on rights. The participation of a diversity of actors mainly aims however to increase awareness of the institution among citizens and their use of it. While this supports the fulfilment of the main mandate of OIs, **they could consider strengthening stakeholder participation initiatives that aim at promoting public governance reforms. Promoting public governance reforms would reduce the need for complaints by citizens in the long term. These could include initiatives to more accurately identify systemic problems of the public administration, propose innovative solutions and recommendations and strengthen their implementation. In addition, these initiatives could aim to promote an open government culture among the public administration and society at large. Therefore, stakeholder participation initiatives that go beyond information and include consultation or engagement could be envisioned.**

Figure 3.10. **Levels of stakeholder participation among OIs**



Note: n=83, as nine OIs do not engage stakeholders and two did not reply to how they engage them (Committee on Petitions and Complaints of the Bavarian State Parliament (Germany), and the Ombudsman of Madagascar)

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

In addition, 64% of responding OIs (56% of ENO members) collaborate with other organisation on citizens' complaints, either collaborating with NGOs that transfer complaints or with other independent institutions (other OIs, human rights institutions, etc.). This is for example the case of the Ontario Ombudsman (Canada) who receives complaints

Box 3.4. **STAKEHOLDER PARTICIPATION INITIATIVES AMONG OIS**

OIs have put in place initiatives that aim to engage stakeholders in informing them, consulting them to improve services and through partnerships.

Information initiatives

The **Austrian Ombudsman Board** for example uses the national public broadcasting station to present and explain its work in showing real-life examples of complaints, while also trying to find solutions for citizens during its TV show "Advocate for the People" (BürgerAnwalt). The show is broadcasted weekly and has an audience share between 20% and 35%. The **United Kingdom Parliamentary and Health Service Ombudsman** equally uses audio-visual material to inform the public about its work. The Radio Ombudsman podcast features regular discussions on topics relevant to the institution's work. It is hosted by the Ombudsman himself.

Consultation initiatives

The **Scottish Public Services Ombudsman (United Kingdom)** has established regular consultation with stakeholders on issues on which they receive the greatest number of complaints (local authorities and the national health system). These sounding boards provide a space for regular exchange and aim to propose improvements. In addition, a sounding board with former users of services exists to improve the institution's own service. Similarly, the **Office of the Commissioner for Fundamental Rights of Hungary** has a regularly convening Civil Consultative Body while the **Ombudsman Western Australia** set up an Advisory Panel of experts including academics, representatives of the Aboriginal community and NGOs for advice on trends and own motion investigations. The **European Ombudsman** regularly launches public consultations linked to her public interest inquiries, e.g. on Council transparency or the EU institutions' language policies. These consultations are at times open to the public or else to targeted stakeholders. The **Parliamentary Ombudsman of Norway** consults with NGOs in order to promote and protect human rights of persons deprived of their liberty.

Collaboration initiatives

Some OIs also collaborate with other institutions to receive complaints such as the **Irish Ombudsman** who works with a trained staff of Citizen Information Centres which can take complaints for submission to the institution. The **Ombudsman of Spain** and the **Basque Ombudsman (Spain)** work with civil society to produce special reports. The Basque Ombudsman also organised joint activities and involved NGOs in their strategic planning. The **Ombudsman of Wallonia and of the Wallonia-Brussels Federation (Belgium**) engages with stakeholders to identify systemic problems, in meeting every three months with the Wallon Network Against Poverty to identify difficulties for people living in poverty. In particular, institutions dealing with human rights related issues have established cooperation agreements with civil society organisations. The **People's Advocate of Romania** signed collaboration protocols with 35 NGOs in the field of prevention of torture in places of detention. The protocols regulate the terms of cooperation such as the obligation of confidentiality. Similarly, the **Ombudsman of Serbia** collaborates with NGOs in this field. The **Ombudsman of France** has also signed conventions with NGOs and professionals that support its work in relation to dealing with complaints and conducting awareness activities. For example, in order to strengthen children and youth education about their rights the institution signed seven conventions with magistrates, students, researchers, philosophers, youth doing civil service, cartoonist and teachers. The **Estonian Chancellor of Justice** co-operated with NGOs to organise the event "With Children and for Children", and set up an advisory body to the chancellor comprising representatives of children's and youth organisations. The **Lithuanian Seimas Ombudsmen's Office** collaborates with the media, in particular, the Association of Regional Radio Stations to conduct joint programmes on human rights issues, whereas the radio prepared the programme and the Ombudsmen's Office the advice on the topic.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

from organisations that serve adults with developmental disabilities or injured workers and provincial inmates or of the Québec Ombudsman (Canada) that receives complaints in the field of health and social services from the assistance and complaint support centres. The Administrative Evaluation Bureau of Japan has a network of 5 000 private citizens that are commissioned to receive complaints. The Estonian Chancellor of Justice, the People's Advocate of Romania and the Ombudsman of Serbia also indicate receiving complaints submitted by NGOs on behalf of their target group. The Petitions Committee Parliament Mecklenburg-Vorpommern (Germany) and the Ombudsman of Spain report that Internet platforms such as open.petition or change.org sometimes transfer complaints. The Petitions Committee Parliament Mecklenburg-Vorpommern (Germany) is further reflecting about the option to publish complaints on line in order to enable supporters to sign these. These collaborations enable OIs to more effectively implement their mandate, as citizens have further avenues to learn about the OIs and submit complaints. NGOs might sometimes be closer to citizens or these might be less reluctant to address an NGO than public institutions. Learning from these practices, other **OIs could consider establishing partnerships with external actors (NGOs etc.) to receive complaints** without compromising the institution's independence**. A clear definition of responsibilities and roles is however crucial for such collaboration to**

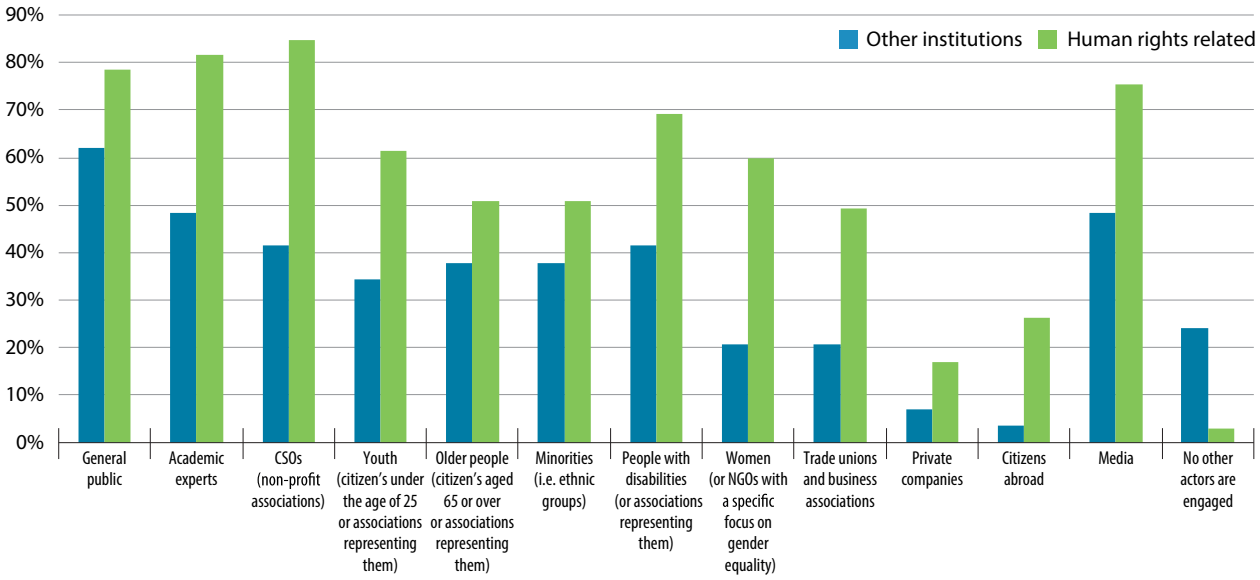
be successful.

Participation of various stakeholders

As discussed, stakeholders include a variety of different actors, who can contribute differently to policy making and might require different channels and mechanisms for effective participation. The findings show that OIs engage with a variety of actors, whereby the general public, academic experts, civil society organisations (CSOs) and the media are the most privileged actors of participation, whereas vulnerable or under-represented groups are engaged by fewer OIs (see Figure 3.11).

Figure 3.11. **Actors with whom OIs engage**

Human rights related vs other OIs



Note: Human rights related OIs include all those that have a human rights, children's rights and/or prevention of torture mandate (Grey bar) (65 OIs) versus all others (29 OIs).

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

The mandate of OIs also impacts their stakeholder participation culture. OIs that have a human-rights-related mandate (institutions with a mandate on Human Rights, Children's Rights and/or Prevention of Torture) are more likely to engage with all different stakeholder groups overall, while only 3% do not engage at all with stakeholders in comparison to 24% of the OIs without a human rights mandate. This might be linked to their thematic focus, as there is a wide variety of NGOs active in the field of human rights. However, this also provides for good practices for other OIs to learn from. Yet, also among human-rights-related OIs engagement with vulnerable or under-represented groups is less common than engagement with the general public, academic experts, CSOs and the media.

OIs could consider building upon their relationships with the various actors to create partnerships to better analyse systemic malfunctioning of the public administration and conduct joint initiatives to promote open government principles in the public administration. In addition, OIs should systematically evaluate if specific social groups are underrepresented in the use of their services and specifically target their participation initiatives and practices at these groups.

Monitoring and evaluating stakeholder participation

Monitoring and evaluation (M&E) are an essential part of policy making and, as the Recommendation on Open Government recognises, crucial for open government strategies and initiatives. M&E can help identify challenges, overcome and learn from them, as well as provide accountability and legitimacy for used resources. Moreover, M&E is crucial to assess policies against the intended outcome, thereby assessing impact. Monitoring and evaluation are defined as:

- **Monitoring**: "A continuing function that uses systematic collection of data on specified indicators to provide management and the main stakeholders of an ongoing […] intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds."

- **Evaluation**: "The systematic and objective assessment of an ongoing or completed project, programme or policy, its design, implementation and results. The aim is to determine the relevance and fulfilment of objectives, […] efficiency, effectiveness, impact and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and donors. Evaluation also refers to the process of determining the worth or significance of an activity, policy or programme. An assessment, as systematic and objective as possible, of a planned, ongoing, or completed […] intervention." (OECD, 2016a).

Accordingly, the M&E of stakeholder participation initiatives is essential to assess their impact, enhance the quality of practices and improve their outcomes. About half of OIs that engage other actors affirm that they monitor (51%; 41% of ENO members) and measure the impact (51%, 41% of ENO members) of their participation activities.[8] It should be noted that most OIs refer to ''monitoring'' as reporting their participation activities and ''measuring impact'' as keeping track of the number of complaints they receive. This indicates that an M&E culture of stakeholder participation initiatives is not yet very wide spread. Box 3.5 provides some good practices. However, OIs are not the only institution struggling with the M&E of open government initiatives, as it is equally a challenge for governments. The OECD's ongoing work on a tool-kit on open government will provide further best practices on measuring and evaluating stakeholder participation. In addition, **OIs could consider exchanging best practices among themselves and to develop M&E guidelines**.

Open government is at the heart of the work of OIs. As we have seen in this chapter, they have developed a multitude of practices that aim to strengthen transparency, integrity, participation and accountability. A more strategic approach would however support OIs in building an open government culture that supports the implementation of their mandates, strengthens the legitimacy and trust of their institution and enables them to be more active actors in an open state. OIs could, therefore, consider developing an open government strategy, action plan or guidelines, or to integrate a section dedicated to open government in their overall strategy. This would help to identify the objectives, priority activities and to align these with resources. It would also strengthen high-level commitment and provide a basis for M&E. The OI community could also consider developing joint guidelines or joint principles (see Chapter 5).

8. n=83, as nine OIs do not engage stakeholders and two did not reply (Ombudsman of the Republic of Mauritania and Ombudsman of France).

Box 3.5. MONITORING AND EVALUATING STAKEHOLDER PARTICIPATION AMONG OIS

While several OIs engage stakeholders in fulfilling their mandate monitoring these activities and evaluating their impact is less common.

The **Irish Ombudsman**, however, has a Quality, Stakeholder Engagement and Communications Unit which oversees external engagement, while the **Office of the Commissioner for Human Rights of Poland** collects statistics of correspondences and meetings linked to stakeholder participation.

The **United Kingdom Parliamentary and Health Service Ombudsman** keeps a stakeholder directory, categorised by subject, to identify participation opportunities while the External Communications team monitors media coverage and stakeholder perception of the participation initiatives. The **Public Services Ombudsman for Wales (United Kingdom)** monitors its stakeholder participation in assessing it against the agreed programme of work of the outreach strategy (see Box 3.1). In addition, when initiatives focus on specific groups (e.g. minority ethnic communities), the institution assesses whether complaints from that group have increased. Similarly, the **Ontario Ombudsman (Canada)** tracks complaints by the organisation, enabling it to assess if outreach activities were successful. The case management system includes information about how individuals heard about the institution.

The **Turkish Ombudsman** reports measuring the effectiveness of their stakeholder participation initiatives in comparing complaints received before and after activities. The **Scottish Public Services Ombudsman (United Kingdom)** measures the impact of individual projects and discusses its participation practices with sounding boards (see Box 3.4). **Ombudsman Toronto (Canada)** conducts short qualitative surveys after its stakeholder participation initiatives to assess if the initiative has increased understanding of the institution and if stakeholders have suggestions for improvements. The **European Ombudsman** reports having set key performance indicators which measure their social media engagement, press, web visits and the effectiveness of its interactive guide for requesting information or lodging a complaint.

Source: Information provided by OIs in their responses to the 2017 OECD Survey on the Role of Ombudsman Institutions in Open Government

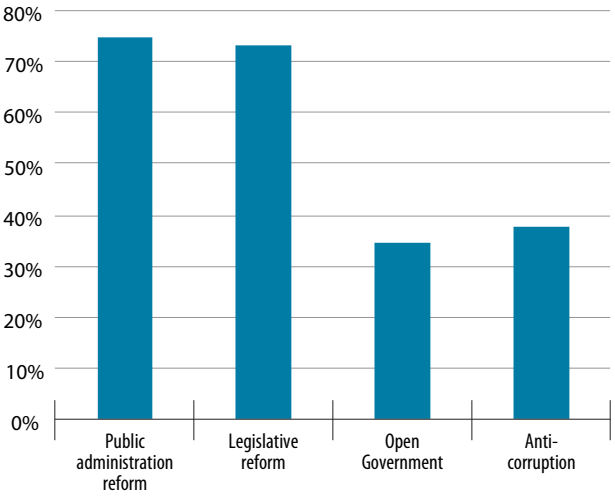
Ombudsman institutions as key actors in policy making and open government reforms

THE ROLE OF OIS IN POLICY MAKING AND PUBLIC GOVERNANCE REFORMS

Through the handling of complaints, investigations on their own initiative (if applicable) and the reports ombudsman institutions (OIs) submit on a yearly basis to the respective institutions (parliament, head of government or head of state), OIs collect a wealth of information about the functioning or malfunctioning of public administrations. Their recommendations not only aim to solve the specific problem a citizen encounters but to also address more systemic problems to improve the public administration and to hold it accountable. Thus, OIs are crucial actors for policy making and public governance reforms as they inform these through evidence-based expertise based on their cases and their regular interaction with citizens.

The results of the "OECD Survey on the Role of Ombudsman Institutions in Open Government" (hereafter referred to as the "OECD Survey") show that most OIs' mandates include making proposals for public governance reforms (71%; 66% of European Network of Ombudsmen [ENO] members) and that the majority has contributed (68%, 58% of ENO members) to reforms. Of those that did contribute, most contribute to public administration reform (75%), and legislative reform (73%) and fewer indicate having contributed to anti-corruption efforts (38%) and open government initiatives (34%) (see Figure 4.1).

Figure 4.1. **OIs' contribution to different kinds of public governance reforms**



Note: n= 64, as 64 OIs report having contributed to public governance reforms.

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Contributions to public administration reforms occur through the regular reports and recommendations of OIs, but also through their participation in consultations on matters within their jurisdiction. For example, the Scottish Public Services Ombudsman (United Kingdom) participates regularly in inquiries and consultations undertaken by the parliament and the government and publishes their responses to these on a dedicated part of their website (www.spso.org.uk/consultations-and-inquiries). Furthermore, the European Ombudsman launched several inquiries on its own initiative to improve EU policy making (for example on the transparency of expert groups).

In terms of contributing to legislative reforms, OIs contribute to legal and regulatory changes based on the evidence of their investigations. While the proposed reforms can address regulation governing public service delivery (employment, social security etc.), it can also include laws and regulations related to open government principles such as access to information or anti-corruption. The Ombudsman of Peru notably presented a draft law on transparency of public decisions to Congress while the Human Rights Defender's Office of the Republic of Armenia has provided his opinion on the decision to establish a council against corruption.

In terms of contributions to anti-corruption efforts, it should be noted that anti-corruption is part of the mandate of some OIs. Reform contributions can include investigations on public service contracts (Administrative Evaluation Bureau of Japan), recommendations for national anti-corruption strategies (National Human Rights Institution Moldova, Ombudsman of Sierra Leone) or legislative reviews, as did the Ombudsman of France that provided its opinion on the draft law on transparency, fighting corruption and modernisation of economic life or as by the Commission Against Corruption of Macao that shared its opinion on the prevention and suppression of bribery in the Private Sector Law.

In comparison to public administration reform and legislative reform, the number of OIs indicating that they contribute to open government initiatives is much lower with 34%. However, as discussed below, OIs in fact contribute to open government initiatives through the role they are playing in public governance reforms.

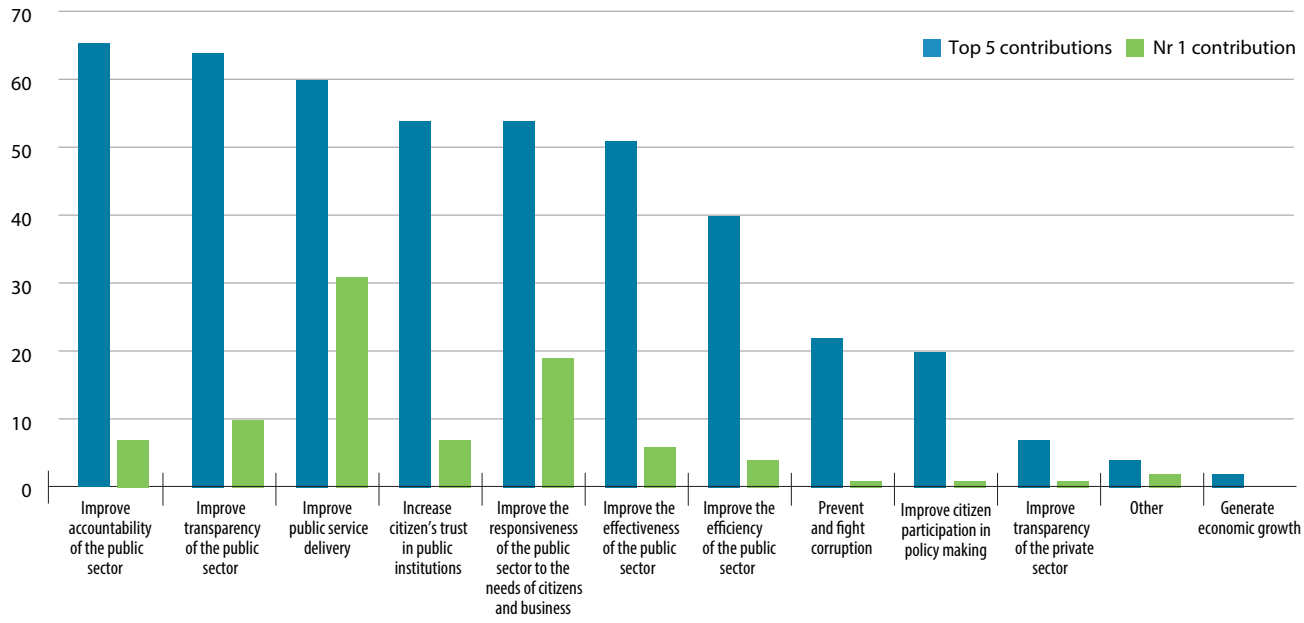
PROMOTING THE OIS' ROLE IN OPEN GOVERNMENT REFORMS

The OECD Survey shows that OIs consider their most important contribution to public governance reform to be improving public service delivery or improving the responsiveness of the public sector to the needs of citizens and businesses (see Figure 4.2).

However, when taking into consideration OIs' top five contributions, it becomes evident that the principles of open government are at the core of OI's work: improving the accountability and transparency of the public sector are the two main contributions that most OIs selected, even though they do not recognise this role as clearly. Few institutions see their work as contribution to improving citizen participation in the policy cycle; this answer was given by 20 institutions out of 91 respondents and only the Office of the Petition Committee of Saxony-Anhalt (Germany) considered it to be the number one contribution. OIs can, however, play an important role for citizen participation as they have the privilege of interacting directly with citizens, providing an opportunity to hear their concerns and feed them back into the policy cycle through reports to parliament and the head of state or government.

In addition, it should be noted that OIs cited several examples of their contributions to public administration reforms and legislative reforms, which actually also contribute to open government in a wide variety of ways including in promoting transparency of the government (i.e. on policy evaluation as did the Administrative Evaluation Bureau of Japan) or on legislative reform for open government (i.e. the Ombudsman of Navarra [Spain] contributed to the Foral Law on transparency and open government becoming a member of the Transparency Council of Navarra) or as the Ombudsman of the Republic of Bulgaria that developed a guide on good governance for municipalities. Other examples include the Ombudsman of Peru that has developed guidelines on access to information, the Commission on Administrative Justice of Kenya that contributed to the development of an access to information law while the Catalan Ombudsman (Spain) evaluated the Transparency Act. In addition, the Ontario Ombudsman (Canada) provided reform suggestions on the transparency of municipalities, while the Scottish Public Services Ombudsman (United Kingdom) did so on whistle-blowing in the framework of their government's participation in the Open Government Partnership (see the next section).

Figure 4.2. **OIs' contributions to public governance reforms**



Note: n=89, as Petitions Committee State Parliament North Rhine-Westphalia (Germany) and the Ombudsman of France did not reply, the Petitions Committee State Parliament Baden-Württemberg (Germany) does not consider the question to be applicable to their mandate, Committee on Petitions and Complaints of the Bavarian State Parliament (Germany) and Administrative Evaluation Bureau of Japan cannot provide a ranking.

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

Therefore, OIs are promoting the principles and practices of transparency, integrity, accountability and stakeholder participation through their own work. They are hence particularly well placed to be actors of countries' open government reforms by providing recommendations for reform initiatives based on their expertise, investigating and addressing complaints of the (mal)functioning of the public administration, supporting the dialogue with citizens through regular contact and their engagement with other stakeholders, as well as holding government accountable in relation to their open government reforms. However, according to the responses, OIs face several challenges in this regard. The top 3 challenges are: (I) the lack of political will, (II) the absence of a national open government strategy and (III) the lack of expertise within the institution (see Figure 4.3).

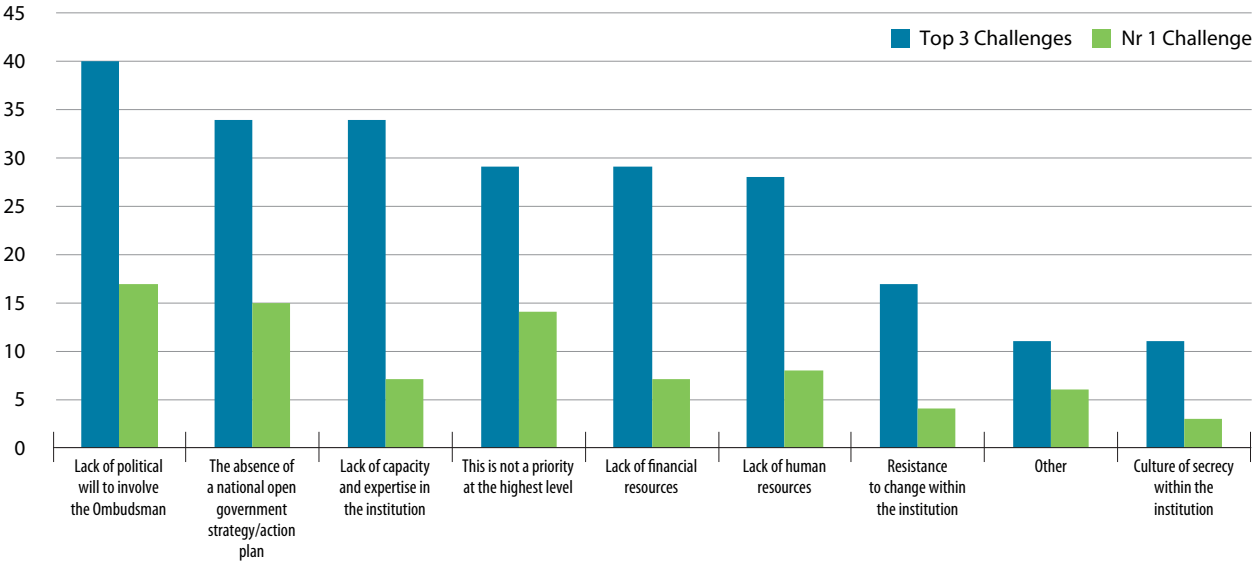
Discussions with OIs reveal that the executive's lack of political will to involve them may be the result of several reasons such as the need to preserve their independence from the executive, or the OI and the executive have not yet recognised the strategic role that this institution can play in promoting open government reforms. However, by stressing the importance of transparency, accountability and citizens' participation in their daily work and as part of their mandate as explained in the previous section, **OIs could explore the possibility of playing a greater role in the open government agenda through several channels such as steering committees,** as explained below**.**

Furthermore, the absence of a national open government strategy/action plan should not been seen as a barrier for OIs. They **can play an important role in promoting open government reforms and its principles by recommending to develop and/or adopt one.** Moreover, once the national strategy is adopted, **OIs could play an active role in contributing to its implementation and monitoring the achievements of commitments and objectives. OIs could therefore proactively reach out to their respective governments to identify ways to engage in the open government reform process.**

While the previous challenges refer more to the overall open government agenda existing within a country or territory, OIs also cited internal issues as challenges. These include in particular: lack of capacity and expertise within the institution, lack of financial and human resources, as well as not being a priority at the highest level. **OIs can therefore provide training for their staff on the respective topics, working in collaboration with civil society, universities and public administration schools.**

Furthermore, several institutions also chose the option "other" or "none" to indicate that open government falls outside of their mandate. While open government might not be specifically mentioned in the mandate, OIs can contribute to public governance and thus open government through their complaint handling. Four OIs indicated that none of these are challenges. The Ombudsman of New Zealand sees the statutory requirement to conduct investigations in private and

Figure 4.3. **Challenges for OIs to engage in open government reforms**



Note: n=85, as five OIs did not reply, four indicate that none of these are challenges and four indicate that this is outside of their mandate/not applicable. However some also chose "other" to indicate that it is outside their mandate. In addition five OIs only chose 1 or 2 challenges.

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

to maintain secrecy as the greatest challenge to their involvement in open government.

As few institutions have reflected on their role in open government or have a vision or strategy that guides their participation in open government reforms, it is important for OIs to understand the role they have in promoting government transparency, accountability, integrity and stakeholder participation through their recommendations on public governance reforms, legal reforms or their role in the field of access to information and citizen participation, as shown below. As discussed, **OIs could increase the awareness of their staff and of the population of their intrinsic role in the government's open government agenda**. (see Box 3.1)

OIs' role in the Open Government Partnership's action plans

Governments at the national and subnational levels around the world are designing and implementing open government reforms. In this framework, several governments and some pilot subnational governments joined the international Open Government Partnership (OGP), which requires biannual open government action plans (OGP Action Plans). In order to strengthen the implementation of OGP Action Plans most countries or territories have set-up co-ordination mechanisms, in many cases including members of civil society. While the OGP promotes a partnership between government and civil society, the participation of other actors in these efforts is also possible, though less common, as Figure 1.1 in Chapter 1 shows.

The findings of the OECD Survey show that the involvement of OIs in the (sub)national governments' open government agenda still remains small. Only 15% (6% of ENO members) report being involved in the open government strategy or action plan of the government. In some cases, OIs made submissions to the OGP Action Plans (Irish Ombudsman), others are also involved in the implementation of the plan (Greek Ombudsman, Moroccan Ombudsman, Ombudsman of New Zealand), while the European Ombudsman encourages the European Union to join the OGP. OIs can also contribute to governments' open government agenda beyond the OGP, as is the case in New South Wales (NSW) Australia where the NSW 2021 Plan includes among its goals a set of goals related to open government principles. These examples (see Box 4.1) show how **OIs can be involved in open government strategies and the OGP process.**

Figure 1.1 in Chapter 1 shows that of the 26 countries studied in the OECD report *Open Government: The Global Context and the Way Forward* that have a co-ordination mechanism on open government, less than 30% include independent institutions. Similarly, few of the 94 OIs that responded to the survey (only 13%, 6% of ENO members) affirm being involved in a co-ordination mechanism on open government[1] (see Figure 4.4). For instance, the Office of the Ombudsman of New Zealand, the Ombudsman of Spain, the Moroccan Ombudsman, the Human Rights Ombudsman of Guatemala, the Office of the Secretary-General of the Presidency of Chile and the Basque Ombudsman (Spain) are members of a co-ordination mechanism co-ordinating the OGP Action Plans and/or the country's/region's open government agenda (see Box 4.1). Others indicate being members of another co-ordination mechanism, such as on anti-corruption or human rights. The low participation of OIs in these mechanisms might be related to their status as an independent institution and the fear that it might be compromised or their actions misperceived as no longer being neutral. It might also show that there is still little understanding and awareness of the contribution that OIs can bring to open government initiatives. **Thus, OIs could consider participating in open government co-ordination meetings, either as an official member or as an advisory member in order to use their expertise on investigating and addressing complaints of public administration (mal)functioning to inform the open government agenda of their respective constituencies.**

The number of OIs that consider that they play a role in overseeing open government commitments in their country is a bit higher, with 26% (16% of ENO members) affirming that they do so (see Figure 4.4). The majority of OIs indicate that through their regular activities of dealing with citizen' complaints, monitoring compliance of the public administration with good governance principles, rules, laws and norms and their recommendations they oversee open government commitments. This might include citizens' complaints related to open government principles as well as related rules and laws such as access to information. While it is not yet common to specifically evaluate open government commitments as taken in OGP Action Plans or open government strategies, open government as part of good governance is overseen by several OIs.

The OIs – thanks to the wealth of information they receive through their work and their regular contacts with a variety

1. n=93, Ombudsman of the Republic of Mauritania did not reply.

Box 4.1. **OIS' INVOLVEMENT IN OPEN GOVERNMENT STRATEGIES AND THE OGP PROCESS**

Some examples of how OIs have contributed to open government strategies and countries participation in the Open Government Partnership (OGP) include:

The **New South Wales Ombudsman (Australia)** is involved in the NSW 2021 – a ten-year plan for New South Wales. The plan includes as its fifth strategy "restoring accountability to government". This strategy has four specific goals related to open government:

- restore confidence and integrity in the planning system
- restore trust in state and local government as a service provider
- improve government transparency by increasing access to government information
- involve the community in decision making on government policy, services and projects.

The **Irish Ombudsman** has made several suggestions to be considered in the Open Government Partnership National Action Plan. For instance on:

- constitutional recognition for the Office of the Ombudsman
- creation of a statement of public service values
- proposals for pilot policy-making exercises involving non-governmental organisations (NGOs) and citizens
- development of a public service data transparency code.

The **Ombudsman of New Zealand** collaborates with the State Services Commission on the implementation of Commitment 2: "Improving official information practices", embodied in New Zealand's 2016-2018 OGP National Action Plan. Its objective is to allow for government information to be easily accessible, improving the way in which the government responds to requests for official information.

The **Ombudsman of Argentina** also helped draft the 2017-2019 Third OGP Action Plan. The OI is part of Commitment 32 which foresees "the establishment of an innovation laboratory for those organisations responsible for safeguarding rights and in charge of external scrutiny", thereby seeking to achieve synergy between the Ombudsman of Argentina, the Penitentiary Prosecutor's Office and civil society in order to improve the impact and legitimacy of control bodies.

The **Office of the Secretary-General of the Presidency of Chile** has participated in the process of evaluating the level of compliance with the Open Government Partnership Framework. Additionally, this OI has made several remarks regarding the methodological and quantitative details of the country's OGP Progress Report.

The **Human Rights Ombudsman of Guatemala** is in charge of monitoring the round tables for the Third OGP Action Plan. The institution has also contributed to defining future goals for the upcoming Fourth OGP Action Plan. Moreover, the Human Rights Ombudsman of Guatemala strives to promote transparency, accountability and access to information as part of both the country's Third OGP Action Plan and Sustainable Development Goals Plan.

The **Commission on Administrative Justice of Kenya** assists in the implementation of Commitment 8 included in Kenya's 2016-2018 OGP National Action Plan II, which involves enhancing the right to information by strengthening records management and access to information.

The **Moroccan Ombudsman** is a member of Morocco's Open Government Steering Committee, which includes ministries, other independent institutions as well as civil society. As a member of the Committee, the institution also proposed open government commitments to be included in the first OGP Action Plan, in particular on developing an integrity online portal, for whose implementation the OI is responsible.

The **Parliamentary Ombudsman of Norway** has participated in meetings related to the Open Government Partnership process in Norway.

The **Basque Ombudsman (Spain)** is also in charge of several initiatives. More specifically, this OI has attended several meetings that the Basque Government has launched in order to promote their Open Government Framework.

The **Greek Ombudsman** is involved in the implementation of the 4th Commitment of Greece's Third OGP Action Plan. Commitment 4 refers to the "Accountability and settlement of disputes between the citizens and the public sector" and aims to institutionalise mediation as a problem-solving instrument between public authorities and citizens. This initiative, which is carried out in collaboration with the Ministry of Interior and Administrative Reorganization, seeks to enhance accountability, reduce maladministration and fight corruption with the participation of the Greek Ombudsman as an independent public authority.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government", New Zealand Government (2016), *Open Government Partnership National Action Plan 2016-2018*, https://www.opengovpartnership.org/sites/default/files/New-Zealand_National-Action-Plan_2016-2018.pdf, Ministerio de Modernización Presidencia de la Nación (2017), *3er Plan de Acción Nacional de Gobierno Abierto de la República Argentina*, https://www.opengovpartnership.org/sites/default/files/Argentina_Action-Plan_2017-2019.pdf

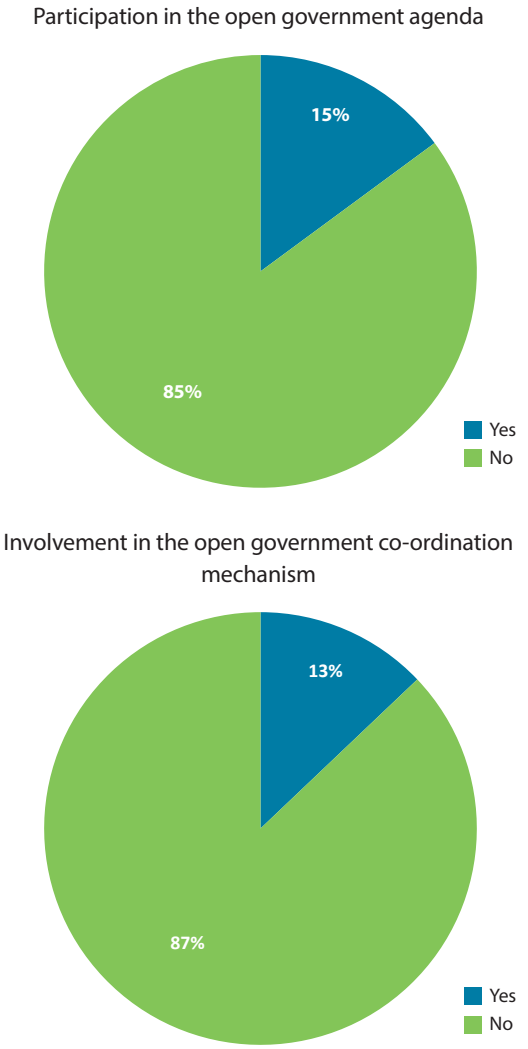
of stakeholders – are in a good position to promote open government principles within the public administration and participate actively in the open government agenda. Accordingly, 33% indicate using information material, 17% studies and research and 30% seminars and training courses to promote open government.[2] For instance, the People's Advocate of Albania reports having developed a guide on the principles of good governance which it disseminates to public officials and who are also trained on the guide. Another approach to supporting open government principles is the one carried out by the Office of the Ombudsman of New Zealand and the New South Wales Ombudsman's (Australia) which offer training on the freedom of information legislation, the Parliamentary Ombudsman of Norway that holds lectures on transparency and freedom of information. OIs with a human-rights-related mandate conduct studies and training courses on human rights topics such as Office of the Commissioner for Fundamental Rights of Hungary and the Ombudsman of France. The Ombudsman of the Republic of Burundi has organised political cafés on the weaknesses of political parties and civil liberties. The National Human Rights Institution of Moldova is considering establishing a Distinction of the Ombudsman for Good Administration, a contest where institutions and civil servants are evaluated including according to open government principles. Such an initiative could further promote open government. **Based on their expertise and the wealth of information OIs receive through complaints and investigations, they could consider promoting open government principles more systematically through guidelines, training courses and seminars within the public administration**, as some OIs already do.

OIs' role in access to information

Access to information is a key pillar of open government. OIs, of which some are the official institution overseeing the access to information law (39%, 38% of ENO members) and of which some despite not being that institution receive complaints in this field (68%, 81% of ENO members), can also play a role in open government in promoting access to information. Some 81% (88% of ENO members) of OIs participating in the study thus play a role in access to information; they receive complaints on access to information, can launch their own investigations (which almost 50% of the OIs being the official access to information institution can do and which one-third of those not being the official access to information institution but receiving complaints in this field and treating them can do), prepare special reports (which around 50% of OIs being the access to information institution report doing and very few OIs not being the official access to information institution but receiving complaints in this field and treating them are

2. n=87 as seven OIs did not reply.

Figure 4.4. **OIs' involvement in open government strategies and the OGP process**



Note: n=93, the Ombudsman of the Republic of Mauritania did not reply

Note: n=92, Children's Ombudsperson of Mauritius and Ombudsman of Tonga did not reply

Source: Responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government".

doing) and proactively promote that right (which around 70% of OIs being the access to information institution report doing and few of the other OIs receiving complaints in this field do). Some OIs (see Box 4.2) have for example made special investigations on the respect of that right in specific institutions, publishing their findings and/or reporting them to parliament. Another approach is providing guidance on access to information and offering training aimed both at public officials and the general public. While access to information is at the heart of the mandate and activities of some OIs, others are not contacted on this issue and do not proactively treat the topic.

As several OIs play a role in open government through promoting access to information, **they could become a more strategic actor for the executive to move forward its transparency agenda. In case the OI has a mandate on access to information, the institution could consider engaging in further activities, beyond monitoring administrative compliance, such as special reports for the executive as well as training and guidance on access to information for public officials. In case, the OI does not have the mandate, the institution could strengthen its collaboration with the official access to information commission (if existing), and in co-operation with civil society and the media, to ensure that the right to access to information is indeed implemented as prescribed by the law and does reach all citizens.**

OIs' role in citizen participation in the policy cycle

Stakeholder participation or citizens' participation is another key pillar of open government. Public administrations/governments at all levels of the state are developing a multitude of stakeholder participation mechanisms. As discussed above, this includes mechanisms for information, consultation and engagement in the policy cycle, meaning, according to the Recommendation on Open Government in "1) identifying policy priorities; 2) drafting the actual policy document; 3) policy implementation; and 4) monitoring implementation and evaluation of the policy's impacts". In some cases, participation is enshrined as a constitutional right; some countries or territories demand obligatory consultations in the process of rule and regulation making; and a few countries or territories have developed citizen participation guidelines or charters. While OIs receive a multitude of complaints on public service delivery, they can equally receive complaints concerning citizen participation in the policy cycle. In investigating these complaints or launching their own investigations, OIs can be a watch-dog of stakeholder participation. **OIs could play an important role in promoting the institutionalisation of citizens' participation through a law or internal regulations.** This is a new area that executives all over the world are exploring to better frame an inclusive policy making. The aim is to ensure that all citizens, including vulnerable ones (poor, women, migrants, LGBT community, etc.), are part of the decision-making process and the appropriate mechanisms are established beforehand to avoid policy capture and consultation fatigue. While 38% (45% of ENO members) receive complaints in this field, very few institutions collect separate data on these complaints and only 18% of the institutions can or have initiated investigations on their own on citizen participation. Complaints received by OIs concern improper organisation of consultation processes on policies, such as territorial planning, but also in a few cases demands for referenda or surveys. Own investigations have been made into the accessibility of voting premises or the functioning of specific citizen participation mechanisms (see Box 4.3).

Therefore, OIs could consider registering complaints on citizen participation specifically so as to assess the degree to which infringements on citizen participation are a systemic problem. Building on these complaints and on their own investigations (if applicable) they could provide guidance on citizen participation mechanisms to both governments and citizens alike in order to strengthen these processes.

OIs' role in transparency in lobbying activities and revolving doors practices

In terms of supporting the integrity and accountability of the government, other key principles of open government, OIs seem to be less active so far. Lobbying is a growing global concern with governments aiming to regulate lobbying to ensure transparency and integrity in lobbying-related activities. The OECD Recommendation of the Council on Principles for Transparency and Integrity in Lobbying [C(2010)16] state that "countries should involve key actors in implementing a coherent spectrum of strategies and practices to achieve compliance [with lobbying regulation]". Thus, OIs could be a key actor in transparency in lobbying as well as in revolving doors policies.

Box 4.2. OIS' TASKS REGARDING ACCESS TO INFORMATION

The **Public Defender of Rights of the Slovak Republic** has received numerous complaints concerning violations of RTI (right to information). For instance, the Ombudsman Office dealt with a particular case where the news media was excluded from RTI based on a government decision. Similarly, the **Federal Ombudsman of Pakistan** supported the complaint to release attendance information of parliament members.

In 2016, the **Danish Parliamentary Ombudsman** completed an internal investigation regarding ministries' use of several sections of the Access to Public Administration Files Act. More specifically, the investigation examined sections that involved ministerial advice and assistance as well as extended openness, and was based on 30 cases from the Ministry of Finance, the Ministry of Justice, the Ministry of Culture and the then Ministry of Economic Affairs and the Interior. The institution has also underlined the importance of openness in the ministries' daily practices.

In 2017, the **European Ombudsman** launched its own-initiative inquiry into whether the Council of the European Union (the co-legislator in the EU decision-making system), allowed sufficient public scrutiny on EU draft laws. In May 2018, she sent a Special Report including recommendations for improved Council accountability to the European Parliament. The European Ombudsman also launched inquiries into how transparently the European Commission carries out EU trade negotiations and the Brexit process. For complaints about access to EU documents, she recently introduced a fast-track procedure to accelerate the complaint handling.

The **New South Wales Ombudsman (Australia)**, by law, is one of the institutions preparing standards and reviewing public authorities' compliance with New Zealand's Public Interest Disclosure Act. Furthermore, the New South Wales Ombudsman is in charge of guaranteeing the principle of public accountability of Local Aboriginal Land Councils (LALCs). This OI has developed a model internal reporting policy specific to the structure of LALCs as well as a fact sheet, and a quick guide to public interest disclosures for LALCs.

The **Irish Ombudsman** has published several guidance notes on their website that provide a commentary on the Commissioner's interpretation and application of the 2014 Freedom of Information (FOI) Act, with the aim of raising awareness among FOI bodies and members of the public. The institution also offers training on the guidance notes and liaises with FOI bodies, the Department of Public Expenditure and Reform and the Central Policy Unit on FOI-related matters.

The **Ombudsman of Peru** has recently made observations regarding the establishment of the ***Autoridad de Transparencia*** (Transparency Authority), a line agency of the Ministry of Justice that promotes transparency and access to information. Furthermore, the Ombudsman of Peru has launched a handbook for officials on exceptions to the right of access to public information. The handbook comprises a set of questions and answers regarding the interpretation and implementation of the exceptions to the right of access to public information, based on their Transparency and Access to Information Law.

In 2017, the **Ombudsman of Spain** launched a survey related to accessing public information, aiming to identify the transparency and clarity of the language employed by the public administrations in their newsletters and publications, the difficulties in accessing information and the channels to request information. The objective was to identify areas for improvement with regard to the transparency of public administrations and their relationship with citizens. The findings revealed among others that 76% of respondents consider that the institution's publications are easy to understand, that 75% of respondents know how to obtain public information and that 79% are aware of the existence of a national Law on Transparency.

The **Human Rights Ombudsman of Guatemala** has assisted in the drafting of public policies on open data, to reform the access to information law and provides training on access to public information.

In 2017, the **Ombudsman of the Czech Republic** recommended health insurance companies to accept Section 2(1) of the Free Access to Information Act, under which they are obliged to provide information related to their internal rules and competencies on their website.

The **Ombudsman of Argentina** promotes the right of access to information. This OI has actively participated in the drafting of the Free Access to Public Information Bill ***(Proyecto de Ley de Libre Acceso a la Información Pública)***. Although the bill was not approved, it served as the basis for a future ATI law that was later enacted.

The **Human Rights Defender's Office of the Republic of Armenia** assisted on the drafting and review of the Armenian Freedom of Information Law. This OI made a number of recommendations on, among other things, access to information for persons with disabilities. The Human Rights Defender's Office of the Republic of Armenia also allows citizens to submit individual complaints against decisions taken by state agencies, officials or other organisations.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government", Danish Parliamentary Ombudsman (2016), *Annual Report*, http://beretning2016.ombudsmanden.dk/english/annualreport2016/. https://www.ombo.nsw.gov.au/__data/assets/pdf_file/0020/50762/Public-Interest-Disclosures-Act-1994-Local-Aboriginal-Land-Councils.pdf, New South Wales Ombudsman (2017), Public Interest Disclosures Act 1994, Local Aboriginal Land Councils: Discussion Paper, /www.ombo.nsw.gov.au/__data/assets/pdf_file/0020/50762/Public-Interest-Disclosures-Act-1994-Local-Aboriginal-Land-Councils.pdf, Defensor Del Pueblo de España (2017), *Encuesta sobre transparencia*, www.defensordelpueblo.es/otras-publicaciones/encuesta-transparencia-conclusiones/ (accessed 5 July 2018).

Box 4.3. **OIS AND CITIZEN PARTICIPATION**

"Citizen participation can take a variety of forms and may be understood as the interaction, either formal or informal, between governments, citizens and stakeholders (civil society organisations [CSOs], academia, the private sector, etc.) at the initiative of either, that is used to inform a specific policy outcome in a manner that ensures well-informed decision making and avoids policy capture" (OECD, 2016a). Thus, ombudsman institutions can become active advocates for citizens, helping governments foster openness and public trust.

In 2013, the **Basque Ombudsman (Spain)** published a report on e-inclusion and citizen participation, investigating how information and communication technologies (ICTs) are facilitating citizen participation and which social groups are likely to be excluded. The Basque Ombudsman addressed several recommendations to public administrations focusing on creating a more inclusive community and promoting citizen participation through ICT in the public and social spheres. The report also examined the existence of efficient channels and resources that can enable them to participate as well as what motivates them to engage and use ICTs.

In 2013, the **European Ombudsman** launched its own-initiative inquiry regarding the proper functioning of the European Citizens' Initiative (ECI), an instrument that aims to encourage direct democracy by allowing citizens to participate in the development of EU policies by calling on the European Commission. Due to the different signature collection rules in the Member States, not all EU citizens are capable of signing ECIs. The European Ombudsman, therefore, encouraged the Commission to propose to the legislature simpler requirements for Member States.

The **Ombudsman of the Republic of Latvia** has also addressed complaints with regard to the absence of a well-established community consultation process in relation to territorial planning. The institution's investigation indicated that due to the lack of information and the delayed requests sent to representatives of the industry in order to share their thoughts on the subject, directly affected their ability to form their opinions. The ombudsman suggested that these representatives should be able to attend the discussion and proposal consultations from an early stage. The institution also proposed that active representatives of industry be informed before any legal modifications that directly affected the industry were adopted.

The **Estonian Chancellor of Justice** has looked over a particular complaint towards the local government from citizens living in a municipality who wished to arrange a survey in order to determine their opinion on merging their municipality with a neighbouring municipality. Citizens claimed that the local government disregarded their request and the Estonian Chancellor of Justice, therefore, clarified the local government's obligation under Estonian law.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government"; European Ombudsman (2015), "Ombudsman calls on Commission to make European Citizens' Initiative politically relevant", www.ombudsman.europa.eu/press/release.faces/en/59208/ (accessed 23 May 2018);

The findings of the OECD Survey show that this is a relatively new area of involvement for OIs: almost no institution with the exception of the European Ombudsman and the Office of the Secretary-General of the Presidency of Chile among others works on these topics. The European Ombudsman uses strategic investigations to explore this field and promote transparency and accountability and has contributed to the public consultation aimed at reforming the European Union's transparency register. The Office of the Secretary-General of the Presidency of Chile is responsible for the implementation of the Lobbying Act. Some institutions, such as the Ombudsman of the Republic of Latvia and the Portuguese Ombudsman have participated in discussions on lobbying transparency while the Catalan Ombudsman (Spain) has contributed to the topic in evaluating the Transparency Act. With respect to revolving doors practices the OI involvement is even lower, with the exception of the European Ombudsman (see Box 4.4).

Neither of these topics is part of the traditional mandate of OIs, which might explain why so few institutions are active in the field. However, **even if those issues seem not to be part of the OIs' mandate, as they are new areas of concern and therefore of work, OIs could still provide advice in these forward-looking areas and play a role in this regard.**

The **Petitions Committee German Parliament** has stated that they regularly receive complaints from citizens who claim that consultations regarding infrastructural projects have not been conducted correctly. As a result, the Petitions Committee German Parliament investigates if regulations on communal participation were taken into consideration. Moreover, this institution has also received approximately 700 petitions on referenda concerning several topics. Further complaints also refer to consultations on transportation networks.

The **Ombud New Brunswick (Canada)** receives complaints that are associated with public consultations on the development of policies by the government in the social services, environmental issues and municipal governance field. These complaints generally concern an alleged defective consultation process. For instance, the institution investigates cases where a contentious municipal by-law has been swiftly adopted, cases of lack of consultation or claims with regard to an alleged bias on the part of the consulting body.

Ombudsman Toronto (Canada) conducted an investigation in 2012 involving the Toronto Transit Commission (TTC). The TTC had not adequately notified, consulted nor communicated to members of the community that they would be affected by the construction of another exit for a subway station. Consequently, the Ombudsman Toronto conducted an investigation and released seven recommendations regarding this matter.

In 2010, the **Ontario Ombudsman (Canada)** released The LHIN Spin, a report on the Special Ombudsman Response Team investigation into the decision-making process of the Hamilton Niagara Haldimand Brant Local Health Integration Network (HNHB LHIN). The investigation included an examination of the LHIN's approach to its mandate for community engagement in dealing with the restructuring of health services. There are currently 14 LHINs across Ontario in charge of planning, funding and integrating the local health system. The Ontario Ombudsman originally launched this investigation in 2009, as a result of complaints from residents, community groups, health care professionals and other stakeholders regarding the LHIN's handling of two controversial hospital restructuring plans – involving Hamilton Health Sciences and the Niagara Health System. Complainants alleged that the LHIN failed to fulfil its mandate for "community engagement," there was insufficient consultation with stakeholders and the LHIN's decision-making process was generally lacking transparency. The Ontario Ombudsman found that "community engagement," while required by the 2006 Local Health System Integration Act, is "undefined and inconsistent." Furthermore, there had been considerable confusion on the nature of community engagement carried out by both health service providers and the LHIN. The OI also found that the LHIN had failed to ensure that its community had been adequately educated on what to expect in terms of community engagement. Finally, the ministry accepted the OI's recommendations on community engagement.

OECD (2016a), *Open Government: The Global Context and the Way Forward*, OECD Publishing, Paris, http://dx.doi.org/10.1787/9789264268104-en; Oficina del Ararteko (2013), "E-inclusión y participación ciudadana en las esferas social y pública a través de las TIC en Euskadi", www.ararteko.net/RecursosWeb/DOCUMENTOS/1/0_3086_3.pdf.

While not all governments at all levels of the state have an open government strategy or action plan whose design, implementation and evaluation OIs can support, open government initiatives exist at all levels of the government, and as this report has shown, OIs can contribute to promoting the principles of open government in several ways. OIs are actively engaged in public governance reforms through their traditional mandate. There is however great potential to further recognise how contributions to public governance reforms contribute to the principles of transparency, accountability, integrity and stakeholder participation. In addition, there is great potential to deepen the OI activities that aim specifically at open government initiatives.

Box 4.4. THE EUROPEAN OMBUDSMAN'S ENGAGEMENT ON REVOLVING DOORS

The European Ombudsman (EO) received complaints on "revolving doors" from NGOs in 2014 upon which the Institution made a series of recommendations to the European Commission (EC) on how to deal with these issues. The EO called upon the EC to publish all relevant information about senior EU officials that leave to work outside the EU administration. In 2017, the EO furthermore conducted an own initiative inquiry. In order to address the issue more systematically, the EO is engaging with EU institutions to better understand their practices in the field, is making recommendations with regard to the Code of Conduct of European Commissioners and is examining the work of the Ad hoc Ethical Committee of the European Commission.

Source: Information provided by OIs in their responses to the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government"; European Ombudsman (2014), "Revolving doors: Ombudsman will step up supervision of senior EU officials", www.ombudsman.europa.eu/press/release.faces/en/56332.

Towards principles on the role of ombudsman institutions in open government

While an open government culture is common among ombudsman institutions (OIs), there is still varying implementation of open government principles within the functioning of OIs. In addition, OIs are playing a role in open government strategies and initiatives of their respective constituencies. In order to strengthen OIs' open government culture, thereby enabling OIs to act as a role model and reinforcing their legitimacy and the trust that both public institutions and the general public have in them, OIs could adopt common principles with regard to their role in open government. These principles would provide guidelines on what an open government culture within OIs consists of, while equally outlining their ambition concerning their role in the open government agenda of their constituencies. These principles would provide a framework for OIs, would allow citizens and public institutions to know what to expect and would support OIs in strengthening their role in open government, becoming an active actor of an open state.

DRAFT PRINCIPLES ON THE ROLE OF OMBUDSMAN INSTITUTIONS IN OPEN GOVERNMENT

PART I: EMBEDDING OPEN GOVERNMENT PRINCIPLES IN THE FUNCTIONING OF OMBUDSMAN INSTITUTIONS

To strengthen an open government culture within OIs as well as their involvement in their constituencies' open government agendas, OIs could consider:

- **Developing an open government strategy** to provide strategic guidance to implementing open government initiatives in order to strengthen their transparency, integrity, accountability and the participation of stakeholders, while equally outlining the OI's objectives in terms of contributing to open government reforms of their constituency. Alternatively, these objectives could be included in the overall strategic plan of the institution. The strategy should be developed in a transparent and inclusive way.
- **Designating a dedicated unit or person** to be responsible for developing, co-ordinating and overseeing the strategy's implementation.
- **Including sessions on open government in the induction and training activities** for staff as well as establishing partnerships with universities, civil society and/or the government to provide continuous capacity building activities in this field.
- **Exchanging best practices and lessons learned** through the various OI Networks to further promote the effective implementation of policies and practices strengthening their role in open government.

PART II: CREATING AN OPEN GOVERNMENT CULTURE WITHIN OMBUDSMAN INSTITUTIONS

To foster and strengthen the open government culture within their institutions, OIs could consider:

- **Developing guidelines and standards on integrity policies**, such as adopting codes of conduct, asset and conflict of interest declarations, and policies on managing risks of conflicts of interest disseminating them widely and ensuring their implementation.
- **Developing transparency policies** to systematically and proactively publish all key information about their institution, including the vision, mission, the strategic action plan and the financial audit reports in an easily understandable format.
- **Aiming for maximum transparency about their cases and recommendations** while respecting privacy and data protection rights.
- **Strengthening their efforts in two-way communication,** adopting innovative tools to use communication to engage with their audience, among others through expanding their use of social media.

- **Using stakeholder participation practices more effectively, in particular consultation and engagement** to identify systemic problems of the public administration, propose innovative solutions and promote an open government culture in society.
- **Establishing partnerships with external actors (non-governmental organisations academia, etc.) to receive complaints,** without compromising the institution's independence.
- **Systematically evaluating if specific social groups are underrepresented** in the use of their services and specifically targeting their participation initiatives and practices at these groups.
- **Developing monitoring and evaluation (M&E) practices and guidelines** to measure the success of their stakeholder participation activities.

PART III: STRENGTHENING THE ROLE OF OMBUDSMAN INSTITUTIONS IN OPEN GOVERNMENT

To play an active role in an open state and support their constituencies' open government agendas, OIs could consider:

- **Exploring possibilities to play a greater role in the open government agenda** through several channels such as participation in the national open government committees or by submitting proposals for reform to be included and discussed in it. OIs could also consider implementing open government initiatives within the framework of their constituency's open government strategy.
- **Increasing the awareness of their staff and of the population of the OI's intrinsic role in the national open government agenda** through various communication channels.
- **Promoting open government principles more systematically in providing guidelines, training courses and seminars on open government in general and on specific topics** (i.e. citizen participation and access to information) to the public administration and other stakeholders based on the OIs' expertise and the wealth of information collected through complaints and investigations.

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Methodology

This report is based on the 2017 "OECD Survey on the Role of Ombudsman Institutions in Open Government" (hereafter, referred to as the "OECD Survey"). The OECD Survey builds on the results of the OECD report, *Open Government: The Global Context and the Way Forward*, which was based on the data of more than 50 countries and territorires worldwide. This OECD Survey aimed to document the ombudsman's role in the design and implementation of open government strategies and initiatives and to strengthen its contribution in the move from open governments to open states. The OECD Survey was directed to ombudsman institutions (OIs) and in some cases, several replies per country or territory were received, as institutions at the central, regional and local levels were concerned.

Furthermore, the project idea and the preliminary results were discussed during Ombudsman Network meetings held in Brussels. The draft survey benefitted from comments from the European Ombudsman and the *Association des Ombudsmans et Mediateurs de la Francophonie* (AOMF) Secretariat.

STRUCTURE OF THE SURVEY

The OECD Survey was divided into three parts:

1. General characteristics of the ombudsman institution.

2. Open government culture in the functioning of the ombudsman institution.

3. Potential or actual engagement of the ombudsman institution in national open government reforms/agenda.

In the first part of the survey, respondents were asked to provide general information about their institution in order to put their open government efforts into context. In the second part of the survey, respondents were asked to provide information and data on how the principles of transparency, accountability, integrity and stakeholder participation are guiding the work of the OI. The questions refer to the functioning of the OI. In the final part of the survey, respondents were asked to provide information and data about the role that the OI is playing in the open government activities carried out by the government.

COMPOSITION OF THE OECD SURVEY

Part 1. General characteristics of the ombudsman institution

Part 2. Open government culture in the functioning of the ombudsman institution.
- 2a. Transparency and accountability of the institution
- 2b. Communication
- 2c. Participation (engagement with external stakeholders)
- 2d. Monitoring and evaluation
- 2e. Capacity
- 2f. Challenges

Part 3. Potential or actual engagement of the ombudsman institution in the national open government reforms/agenda.
- 3a. Participation in public governance reforms
- 3b. Open government: strategy and co-ordination
- 3c. Access to information (ATI)
- 3d. Citizen participation in the policy cycle
- 3e. Capacity and policies of the institution
- 3f. Challenges

In sum, the OECD Survey contained 49 questions, including several sub-questions.

RESPONSES TO THE OECD SURVEY

This report, *The Role of Ombudsman Institutions in Open Government*, is based on the data received by a total of 93 institutions from 65 different countries and territories (including 35 OECD Member countries) and the European Ombudsman, thus 94 institutions. In order to assign countries a specific regional or sub-regional group, the United Nations geo-scheme was applied.

A total of 14 institutions from 14 African countries; 7 institutions from 6 Asian countries (including 3 OECD member countries: Israel, Japan and Turkey); 4 institutions from 3 Oceanian countries (including 2 OECD Members: Australia and New Zealand); 8 institutions from 2 OECD Members from North America: Canada and the United States; 6 institutions from 6 Latin American countries (including 2 OECD Members: Chile and Mexico); and 55 institutions from 34 European countries and territories of which 26 are OECD Members; and the European Ombudsman submitted their response (see Annex A for the complete list).

THE PROCESS OF DATA COLLECTION

The data collection was facilitated by the European Ombudsman and several Ombudsman Networks. The data was collected starting from 2 March 2017 until 31 May 2018. During the review process for the data received, the OECD made requests for additional information, clarifications and potential good practices from the majority of the institutions that responded to the OECD Survey.

THE LIMITATIONS OF THE OECD SURVEY

The aim of the OECD Survey was to collect comprehensive evidence on the role of ombudsman institutions with regard to open government, as well as to identify common trends, approaches and challenges. The questions addressed by the OECD Survey gathered extensive qualitative and quantitative information. The OECD Survey also offered additional space for the institutions to further explain their practices and make final remarks. It must be stated that not all of the additional information on good practices could be included in the report. However, they have been noted by the OECD and incorporated in the analysis and interpretation of the data.

ANNEX A: OMBUDSMAN INSTITUTIONS THAT PARTICIPATED IN THE 2017 OECD SURVEY ON THE ROLE OF OMBUDSMAN INSTITUTIONS IN OPEN GOVERNMENT

Countries and territories	Institutions - Original title	Institutions – English title
Albania	Avokat i Popullit	People's Advocate of Albania
Argentina	Defensor del Pueblo de la Nación Argentina	Ombudsman of Argentina
Armenia	Մարդու իրավունքների պաշտպան	Human Rights Defender's Office of the Republic of Armenia
Australia	New South Wales Ombudsman	New South Wales Ombudsman
	Ombudsman Western Australia	Ombudsman Western Australia
Austria	Volksanwaltschaft	Austrian Ombudsman Board
Belgium	Le Médiateur fédéral	Belgian Federal Ombudsman
	Bureau du Médiateur de la Wallonie et de la Fédération Wallonie- Bruxelles	Ombudsman of Wallonia and of the Wallonia-Brussels Federation
Benin	Le Médiateur de la République	Ombudsman of the Republic of Benin
Bulgaria	Омбудсман на Република България	Ombudsman of the Republic of Bulgaria
Burkina Faso	Le Médiateur du Faso	Ombudsman of Burkina Faso
Burundi	Ombudsman de la République	Ombudsman of the Republic of Burundi
Canada	Office of the Taxpayers' Ombudsman	Office of the Taxpayers' Ombudsman Canada
	Alberta Ombudsman	Alberta Ombudsman
	Ombud New Brunswick	Ombud New Brunswick
	Nova Scotia Office of the Ombudsman	Nova Scotia Office of the Ombudsman
	Ontario Ombudsman	Ontario Ombudsman
	Protecteur du citoyen du Québec	Québec Ombudsman
	Ombudsman Toronto	Ombudsman Toronto
People's Republic of China	Office of the Ombudsman of Hong Kong	Ombudsman of Hong Kong
	Commission Against Corruption (Macao)	Commission Against Corruption of Macao
Chile	Ministerio Secretaria General de la Presidencia	Office of the Secretary-General of the Presidency of Chile
Colombia	Defensoría del Pueblo de Colombia	Ombudsman of Colombia
Côte d'Ivoire	Le Médiateur de la République	Ombudsman of Ivory Coast
Czech Republic	Kancelár verejného ochránce práv	Ombudsman of the Czech Republic
Denmark	Folketingets Ombudsmand	Danish Parliamentary Ombudsman
Djibouti	Médiature de la République de Djibouti	Ombudsman of the Republic of Djibouti
Estonia	Eesti Vabariigi Õiguskantsler	Estonian Chancellor of Justice
Finland	Eduskunnan oikeusasiamiehen kanslia	Finish Parliamentary Ombudsman
	Valtioneuvoston oikeuskansleri	Finish Office of the Chancellor of Justice
France	Défenseur des Droits	Ombudsman of France
Germany	Petitionsausschuss Deutscher Bundestag	Petitions Committee German Parliament
	Petitionsausschuss Baden-Württemberg	Petitions Committee State Parliament Baden-Württemberg
	Ausschuss für Eingaben und Beschwerden des Bayerischen Landtags	Committee on Petitions and Complaints of the Bavarian State Parliament
	Petitionsausschuss des Landtages Brandenburg	Petitions Committee State Parliament Brandenburg
	Petitionsausschuss des Landtages Mecklenburg-Vorpommern	Petitions Committee Parliament Mecklenburg-Vorpommern
	Petitionsausschuss des Landtages Nordrhein-Westphalen	Petitions Committee State Parliament North Rhine-Westphalia
	Büro des Bürgerbeauftragten des Landes Rheinland-Pfalz und Beauftragter für die Landespolizei	Office of the Ombudsman State Parliament Rhineland-Palatinate and the Ombudsman for the State Police
	Geschäftsstelle des Ausschusses für Petitionen Sachsen-Anhalt	Office of the Petition Committee of Saxony-Anhalt
	Petitionsausschuss des Landtages Schleswig-Holstein	Petitions Committee State Parliament Schleswig-Holstein
Greece	Συνήγορος του Πολίτη	Greek Ombudsman
Guatemala	Procuraduría de los Derechos Humanos	Human Rights Ombudsman of Guatemala
Hungary	Alapvető Jogok Biztosának Hivatala	Office of the Commissioner for Fundamental Rights of Hungary
Iceland	Umbodsmadur Althingis	Parliamentary Ombudsman of Iceland
Ireland	Office of the Ombudsman	Irish Ombudsman
Israel	Ombudsman of the Israeli Judiciary	Israeli Judiciary Ombudsman

Countries and territories	Institutions - Original title	Institutions – English title
Italy	Ufficio del Difensore Civico della Regione Abruzzo	Ombudsman of the Region of Abruzzo
	Ufficio del Difensore Civico della Regione Valle d'Aosta	Ombudsman of the Region of Aosta Valley
	Ufficio del Difensore Civico della Regione Marche	Ombudsman of the Region of Marche
	Ufficio del Difensore Civico della Regione Piemonte	Ombudsman of the Region of Piemonte
	Ufficio del Difensore Civico della Provincia Autonoma di Trento	Ombudsman of the Autonomous Province of Trento
Japan	Administrative Evaluation Bureau	Administrative Evaluation Bureau of Japan
Kenya	Commission on Administrative Justice	Commission on Administrative Justice of Kenya
Kosovo	Ombudsperson Institution of Kosovo	Ombudsperson Institution of Kosovo
Lithuania	Seimo kontrolierių įstaiga	Seimas Ombudsmen's Office of the Republic of Lithuania
Latvia	Tiesībsargs	Ombudsman of the Republic of Latvia
Luxembourg	Ombudscomité pour les Droits de l'Enfant	Ombudsman Committee for Children's Rights of Luxembourg
Mexico	Comisión Nacional de los Derechos Humanos	National Human Rights Commission of Mexico
Madagascar	Médiateur de la République, Défenseur du Peuple	Ombudsman of Madagascar
Malawi	Office of the Ombudsman	Ombudsman of Malawi
Mauritania	Médiateur de la République	Ombudsman of the Republic of Mauritania
Mauritius	Ombudsperson pour les Enfants	Children's Ombudsperson of Mauritius
Moldova	National Human Rights Institution	National Human Rights Institution of Moldova
Monaco	Haut-Commissariat à la Protection des Droits, des Libertés et à la Médiation	High Commission for the Protection of Rights, Liberties and for Mediation – Principality of Monaco
Morocco	Institution du Médiateur du Royaume	Moroccan Ombudsman
Netherlands	Ombudsman Metropool Amsterdam	Ombudsman of the Metropolitan Area of Amsterdam
New Zealand	Office of the Ombudsman	Ombudsman of New Zealand
Norway	Sivilombodsmannen	Parliamentary Ombudsman of Norway
Pakistan	Federal Ombudsman of Pakistan	Federal Ombudsman of Pakistan
Peru	Defensoría del Pueblo	Ombudsman of Peru
Poland	Rzecznik Praw Obywatelskich	Office of the Commissioner for Human Rights of Poland
Portugal	Provedor de Justiça	Portuguese Ombudsman
Romania	Institutia Avocatul Poporului	People's Advocate of Romania
Serbia	Protector of Citizens	Ombudsman of Serbia
Seychelles	Office of the Ombudsman	Ombudsman of Seychelles
Sierra Leone	Office of the Ombudsman	Ombudsman of Sierra Leone
Slovak Republic	Kancelária verejného ochrancu práv	Public Defender of Rights of the Slovak Republic
Slovenia	Human Rights Ombudsman of the Republic of Slovenia	Human Rights Ombudsman of the Republic of Slovenia
South Africa	Western Cape Police Ombudsman	Western Cape Police Ombudsman
Spain	Oficina del Ararteko	Basque Ombudsman
	Oficina del Síndic de Greuges de Catalunya	Catalan Ombudsman
	Defensor Del Pueblo	Ombudsman of Spain
	Oficina del Diputado del Común de Canarias	Canary Islands Ombudsman
	Oficina del Defensor del Pueblo de Navarra	Ombudsman of Navarra
Sweden	Riksdagens ombudsmän	Parliamentary Ombudsman of Sweden
Switzerland	Bureau Cantonal de Médiation Administrative	Office of Administrative Mediation of the Canton de Vaud
Tonga	Office of the Ombudsman	Ombudsman of Tonga
Turkey	Kamu Denetçiligi Kurumu	Turkish Ombudsman
Ukraine	Ukrainian Parliament Commissioner for Human Rights	Ukrainian Parliament Commissioner for Human Rights
United Kingdom	Parliamentary and Health Service Ombudsman	United Kingdom Parliamentary and Health Service Ombudsman
	Public Services Ombudsman for Wales	Public Services Ombudsman for Wales
	Scottish Public Services Ombudsman	Scottish Public Services Ombudsman
United States	The Ombudsman Office, Dayton and Montgomery County Ohio	The Ombudsman Office, Dayton and Montgomery County Ohio
European Union	European Ombudsman	European Ombudsman

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