

**Of the following: Parliament, Ombudsmen, UK Courts, European Court of Justice and the European Court of Human Rights, which body is the most effective at redressing grievances, and why?**

The different bodies of the UK and Europe have their individual ways of redressing grievances. In the UK, the link between Parliament and Ombudsmen is quite significant; in that the way Parliament redresses grievances is through the Parliamentary Ombudsman (officially known as the Parliamentary Commissioner for Administration). The European Courts are connected to the European Ombudsman, whose job shall be outlined later. Each institution is equally effective at redressing grievances, although it seems that the European Ombudsman has greater effect. The reasons for this shall be summarized below.

The European Court of Justice is an institution of the European Union and is situated in Luxembourg. It is not to be confused with the European Court of Human Rights. Except when in its judicial role, the court helps to resolve disputes between member states, the European Union and member states, individuals and the European Union or between the institutions of the European Union. Since 1952, more than 8,600 cases have been presented to the court. To deal with the increasing number of cases more rapidly and therefore more effectively, the court appealed to the European Parliament to allow them to create another judicial body. This was done, and the number of cases dealt with is shared equally between the two groups. Things that the European Court of Justice can take action against are failure to act (against parliament, the council or commission) or damages. If a complaint is made, the person can either go to this court, or to the European Ombudsman.

The European Court of Human Rights is situated in Strasbourg and is an institution of the European Convention for human rights. The creation of this body allows people with a grievance against the state to challenge their treatment at an international level. This means that British citizens can challenge the laws of the state at a European level, although it is expensive and a lengthy process. The Court was reorganized in 1998 and took over the role of the European Commission; this being to receive a complaint from any individual group of individuals or non-governmental body which claimed to be a victim of an aspect of the [European] Convention [for human rights].

When a complaint is made, it goes through to the court's lower bodies, where they investigate the circumstances and try to find a settlement between the victim and the public authority (the group they are complaining about). If no settlement is reached, the case receives a final judgment by the court. A committee of ministers from the Council of Europe is responsible for ensuring judgments against states are properly formed. If maladministration takes place, one can take a complaint to the European Ombudsman.

The European Ombudsman investigates complaints about maladministration by institutions and bodies of the European Community (of which the European Court of Justice is a part of – except when in its judicial role). He cannot deal with complaints concerning national, regional or local administrations of member states – that is, states that are members of the European Union.

A citizen of a member state, a person who is living in a member state, businesses, associations and other bodies with registered offices in the European Union can complain to the Ombudsman about maladministration within activities of institutions and bodies of the European Community. To go about doing this, a form can be sent off (via email, or post) with details of the issue and relevant evidence to support the reason for complaint. This goes straight to the Ombudsman and he will examine the complaint and inform the individual of the outcome. However, there are conditions to which the Ombudsman will comply – the individual must already have contacted the institution or body concerned and he will not deal with a matter that has been settled by a court or is in the process of being settled by a court.

The European Ombudsman is an effective method of redressing grievances because he can be reached directly within an instant and there is no need to go through a primary process to determine whether your complaint is sufficient, as there is with the UK Parliamentary Ombudsman.

Moving on to the UK court system, we have two main parts; the civil courts and the criminal courts. Both courts are arranged in order of hierarchically. To start with the civil courts by beginning with the County Courts – here minor cases such as divorces and tenant disagreements are seen. They progress to the High Court if disputes are of a higher value than £5,000 in claims/damages. Within the High Court is the Divisional Court of Queens Bench Division, which deals with cases referred from the County Courts. Next

is the Family Division, which deals with the family and legal side of personal relations. The third part of the High Court is the Chancery Division, which deals with taxation and wills. Any appeals go to the House of Lords – the highest court in the Civil Courts.

The process of dealing with a complaint through the Civil Courts is long and expensive. It takes a long period of time to process all complaints, and then to determine whether they are in need of a hearing. The outcome is not always what the victim expects, so their time and money feels wasted. However, the Civil Courts are probably the best place to go to if you have been a victim of any of the aforementioned criteria. The other set of UK courts are the Criminal Courts. At the bottom of this hierarchy lies the Magistrates Courts. They pass judgment on 98% of all criminal cases and judge cases that could go through to the Crown Court. Other responsibilities include bailing defendants and issuing licenses to pubs, betting shops etc, and removing them. If a case is deemed to be serious enough, it gets passed on to the Crown Court that deals with major crimes such as rape and murder. They also see and address appeals and complaints.

The UK Courts are not specific ways of redressing grievances of maladministration, but they are bodies that one can complain about to the Parliamentary Ombudsman but not with regards to the judges' decision or the investigation into a crime.

The Parliamentary Ombudsman has much the same responsibilities as the European Ombudsman in that he deals with complaints from the public if they have suffered injustice because of maladministration by a government body or other public body. If a person has a complaint about maladministration (for example, they have been given advice by a government body that is misleading or inadequate), they send details of their complaint to their local MP. If it is deemed to be satisfactory to be investigated, on the basis of the evidence provided, then it is up to the MP to decide whether to pass the complaint to the Ombudsman. There is a form on the official Parliamentary Ombudsman website that can be used to get in contact with your local MP. If it is passed on to the Ombudsman then the investigation commences. If maladministration is deemed to have taken place, the Ombudsman can recommend an appropriate remedy. Although the body complained about is not legally binded to use the recommendation, they are under pressure to do so. A particular example of the Ombudsman at work is taken from the official website:

“The Ombudsman found that Customs and Excise had made mistakes when measuring and recording the length of a fishing boat, with the result that the boat needed more safety equipment than the owner had been led to suppose. Customs paid £12,000 to the owner of the boat in recompense.”

There are criticisms, however, of the Ombudsman; these being that it is a lengthy process because complaints can only reach him through MPs – and will only do so if the MP deems the complaint to be worthy of investigation. The complaint must be in writing and forms are not easy to come by. A reason for this is that the system is not well-known and so many people who have suffered because of maladministration have no way of complaining. However, as the case study shows, when the public do have knowledge of the system, it can become very useful. The advice is free and confidential and all investigations are private. He can cover a wide range of public bodies and in many cases his recommendations are implemented so everyone gets something from it.

Whereas this system would appear to be highly effective, statistics show that less than a quarter of the complaints made to the Ombudsman turn into investigations.

From studying the different ways in which various bodies in the UK and Europe redress grievances, there seems to be no particular body that stands out as being the most effective, but merely one that has more effect than others. Where the European Courts independently have different courts that deal with complaints, and the UK has the Parliamentary Ombudsman and the two Courts which deal with complaints towards both governmental and personal affairs, the most effective in the way it deals with people is the European Ombudsman. He can be reached directly and without the fuss of have to go through an MP. This is not saying that the other systems do not have their merits, or that the European Ombudsman doesn't have his drawbacks, but that as a “user-friendly” system and the speed at which his replies are sent seem to prove that he is the man.

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