



# 1<sup>st</sup> annual report of the CERN Ombuds

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Period covered: 1 July 2010 to 30 June 2011

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## 1] Introduction

*The Ombuds shall issue an annual report on his/her activities to the Director-General. This report shall contain anonymous, statistical information with respect to matters brought to his/her attention, including their nature and status or outcome, as well as a general assessment of the operation of the Office of the Ombuds.*

*Ombuds mandate.*

This is the first report issued from the CERN Ombuds. It covers the period from 1 July 2010 to 30 June 2011. The function of Ombuds was created at the same time as the new CERN Code of Conduct. The basic function of the Ombuds is to provide a zero-barrier, informal, neutral and confidential channel for all Members of the Personnel as well as everyone working on behalf of CERN to express their concerns. Through various means such as listening, advices, coaching and mediation, the Ombuds helps every visitor to resolve his/her conflict, which may sometimes turn out to be just a misunderstanding or a lack of communication.

From the beginning of 2011, the Ombuds is also in charge of dealing with the informal resolution of the various types of harassment, as defined in the Operational Circular NO 9, *Principles and Procedures Governing Complaints of Harassment*.

This report presents a statistical picture of the Ombuds casework by making use of a system of classification developed by the International Ombudsman Organization. Through nine broad categories and several sub-categories, this framework helps to organize and describe the many different issues that lead people to contact the Ombuds.

This report summarizes also some main observations collected during this year of operation, and risks few commentaries and recommendations. Given the fact that the function is very new at CERN, as the Code of Conduct is as well, these considerations should certainly be considered as raw ones, made in a positive spirit to promote good behavior and smooth alternate dispute resolution methods. The number of cases treated during the year, not too few and not too many, indicates that the CERN ambience at work is in general quite correct; it compares with the average of other International Organizations although the span in numbers is large. The desired smooth evolution of culture allowing CERN to reach a level of a full application of its Code of Conduct as excellent as its scientific reputation will ask for a somewhat longer period than just one year.

A description of the additional activities of the Ombuds during the period of reference is also provided in this report, as well as the International Associations of which the Ombuds is part. Such appurtenance supports the legitimacy of the Ombuds function at CERN.

## 2] An overview: roles and principles

The CERN Director-General (DG) has decided upon the creation of a full-time position of Ombuds, starting in July 2010. The creation of the function of Ombuds represents a commitment by CERN to the well-being of all its collaborators and to the improvements of practices that affect the workplace environment.

Ideally, interpersonal issues between those working at, or on behalf of, CERN, should be resolved between the colleagues concerned. However, sometimes this dialogue is not successful or is not possible. In these cases, the services of an Ombuds may help to resolve disputes in a consensual and impartial manner, thus promoting the good functioning of the Organization.

The mandate of the Ombuds ( <http://cern.ch/ombuds> ) provides a detailed picture of the specific guidelines of this function. It may be useful to outline here the most important principles defining the Ombuds role at CERN. These principles are fully in line with the Code of Ethics of the International Ombudsman Association [IOA], which gathers Ombuds coming from Universities, Governments, Companies, and other International Organizations around the world. The IOA is dedicated to excellence in the practice of Ombuds work. The IOA Code of Ethics provides a common set of professional ethical principles to which members adhere in their organizational Ombudsman practice.

The following four concepts represent the foundation of the Ombuds work:

- ❖ **Confidentiality:** The Ombuds shall maintain strict confidentiality with regard to the matters brought to his/her attention. In addition, any reports, recommendations or other documentation issued by the Ombuds shall protect the confidentiality of all persons involved. Persons involved in a matter brought to the Ombuds shall maintain strict confidentiality regarding their interaction with the Ombuds. The only exception to this rule is when the Ombuds deems there to be an imminent threat of serious harm to person or property.
- ❖ **Neutrality/Impartiality:** The interests of both parties and the Organization are kept in mind. The Ombuds shall not take sides and not favor one person over another. In conflict resolution, he/she shall contact all parties involved and treat all parties equally.
- ❖ **Independence:** In performing these services, the Ombuds shall be independent. The Ombuds is not part of a department hierarchical structure, but is directly linked to the DG Unit, while remaining a neutral interlocutor. The Ombuds does not hold any other function in the Organization, and consequently avoids conflict of interest.
- ❖ **Informality:** The Ombuds shall not have any powers of decision making or formal investigation. The Ombuds attempts to address problems at the earliest opportunity and lowest level of conflict. The Ombuds carries only informal investigations and does not accept notice on behalf of the Organization.

The access to the Ombuds is on a voluntary basis. People have the free choice to contact other channels at CERN as well; the Ombuds provides an additional facility which is by no means in competition with the others. Access to the Ombuds is not intended to discourage people from using alternative channels.

The Ombuds' mandate is also to provide guidance with regard to the application and interpretation of the Code of Conduct and to offer confidential assistance for the informal resolution of interpersonal issues. The Ombuds is there to listen, share and examine preoccupations or problems. Conflict resolution may only take place with the agreement of the parties involved. By relying on the responsibility and autonomy of the parties, the Ombuds seeks a fair and ethical solution to the problem.

Everyone working at CERN or in behalf of CERN is entitled to assistance from the Ombuds. However, the services the Ombuds may provide must be compatible with the individual status and/or employment relationship of the person(s) concerned, as well as the nature of the issue. It is also important to note that the Ombuds has direct access to all personnel, including the Directorate. However the Ombuds can only have access to the personnel records with the agreement of the concerned persons.

The Ombuds is appointed by the Director General. The nomination runs for a three-year term, which may be renewed by the Director General for an additional two-year period. Both the nomination and renewal shall be made after consultation with the Staff Association (SA) and the Human Resources Department (HR). Upon completion of his/her service as Ombuds, the Ombuds shall separate from the Organization and may not serve in any other capacity as a member of personnel.

Above all, the Ombuds listens to and considers all concerns and problems that visitors wish to share.

A long-term goal of the Ombuds is to help make sound conflict management skills become common practice at CERN. All efforts will be developed to strengthen CERN alternate dispute resolution and mediation capability so as to reinforce the important role of informal resolution.

### **3] Terms and Terminology**

In reviewing the information presented in this Annual report, it is important for the reader to understand the methodology behind the calculations and statistics, namely what the numbers represent. The key terms appearing in this Report are then defined below.

#### **Case**

A case is a visitor who has reported an issue to the Ombuds. Often a case involves several issues. For example someone having difficulties with his/her evaluative relationship with a supervisor may bring at the same time another issue having to do with his/her career situation. On the other hand, if several visitors come to the Ombuds to share a similar concern, several cases are then connected to a single issue. A single issue could then be for example related to internal mobility, subject which may be a concern of several visitors, namely representing several cases in the statistics of this Report. A single case may involve contacting several persons in order to have a complete picture of the situation. Within a single case also, the same visitor might have to be seen several times in order to reach a resolution of his/her issues.

Cases can involve simple discussion, advice and coaching, action, or mediation between parties. Not all cases are related to real conflicts, some of them may be just a search for information or verification of an action that the visitor intends to pursue.

#### **Issue**

Issues are concerns which are brought to the attention of the Ombuds for discussion, advice, coaching or action.

In reality, almost all cases involve several issues. For example, some abuses of power are evidently linked to some violation of the Code of Conduct, difficulties with supervisors, psychological threat, and connected to health safety. So while the number of cases represents an indication of the level of activity of the Ombuds during the period July 2010 to July 2011, the number and kinds of issues may be a better indicator of the conditions of employment, working conditions and relations between supervisees and supervisors, colleagues or groups of people.

This Report will make use of the IOA classification of issues which outlines nine major categories of issues. Each main issue may be partitioned in several sub-issues, which permits a better identification of the problematic encountered.

#### **Contacts**

Contacts are communications, interactions with the Ombuds, by telephone, e-mail, or some other means of written communication. Short discussions at the cafeteria or in corridors not involving confidential information are also classified in the class of contacts. Although the number of such contacts could have been very large, they are not accounted for in this report, as often they are not even registered but considered just as common interactions in between colleagues.

#### 4] Profiles of the visitors to the Ombuds

In 2010-2011 the Ombuds received 82 visitors (cases). The following illustrations identify visitors by gender, contract classification and method of first contact with the Ombuds. As would be expected, some cases remain pending and will still have to be attended in the period 2011-2012. Each visitor was seen in average 2.6 times. The average number of people who needed to be contacted for each case was 2.6, resulting in a grand average of more than 3.6 meetings per case.

##### Contract classification

The Ombuds appears generally to be a resource which has been used by various visitors. The largest category of visitors is the CERN staff (76%), followed by the Users (10%) and Fellows (6%). The negligible number of cases related to people under an Industrial Service Contract should be noticed. Such cases actually relate only to few discussions with the local manager of the contract, never with the employees of a contract themselves. However there are striking differences in between the categories of the staff members, depending if the people have an indefinite [IC] or a limited duration [LD] contract.

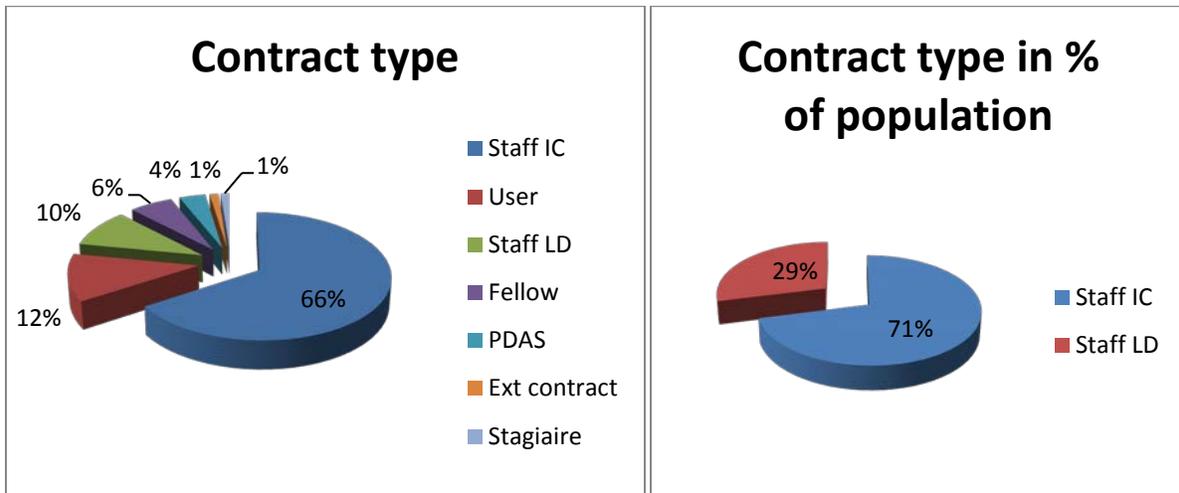


Fig.1: Sharing of the visitors along their contract type.

Fig.2: % of staff visitors with an IC and LD contract.

The relative difference among visitors having an IC or LD contract – almost a factor 2.5 – can have several causes. People under an LD contract could either not care about resolving their issue as their contract is finishing anyway, they could be worried that meeting the Ombuds or complaining about something could endanger their possibility of getting an IC contract or at least put some doubt in the mind of board members, or they could even be afraid of some retaliation, although such action is totally forbidden by the Ombuds mandate. To remove entirely from people the fear of retaliation will take a much longer time than a single year. The people under LD contracts could also simply not come to the Ombuds as their situation goes according to their high expectations; they are new and happy about the job, learning, most of them young

and full of enthusiasm. At this stage it would be hazardous to draw a conclusion, except that the number of cases related to people under IC contract is much superior.

## Gender

In terms of pure number of visitors, the Ombuds met around the same number of men and women. Out of the 82 cases, 42 were related to men and 40 to women. In terms of CERN staff, the numbers are slightly different: out of 62 cases, 36 were with men, and 26 with women. That means that the other categories, like Users, may show a slightly higher percentage of women.

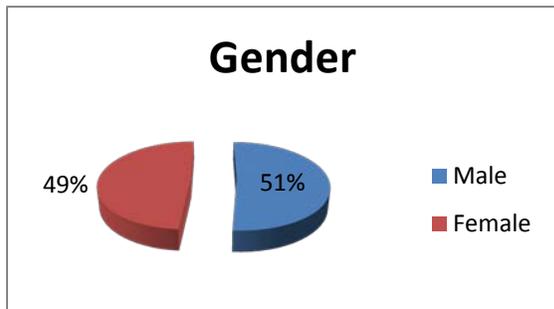


Fig.3: Overall gender sharing

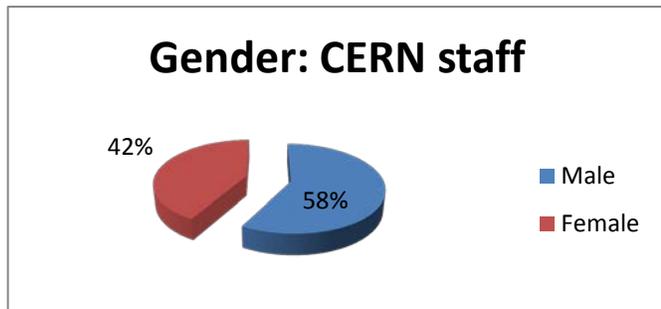


Fig.4: CERN staff gender sharing

These numbers show a very different picture for the CERN staff if they are computed in percentages of the two populations male and female. At the time of the present statistics, there were a total 2328 CERN staff, including the staff paid by external sources, 1839 men and 489 women. The percentage of women CERN staff who met the Ombuds compared to the female CERN staff population is of 5.3%, whether for men it is of 2%. 2.7 times more women CERN staff – almost a factor 3 above men- used the services of the Ombuds. One can then probably deduce that the CERN culture towards Diversity has still to be improved in the Organization.

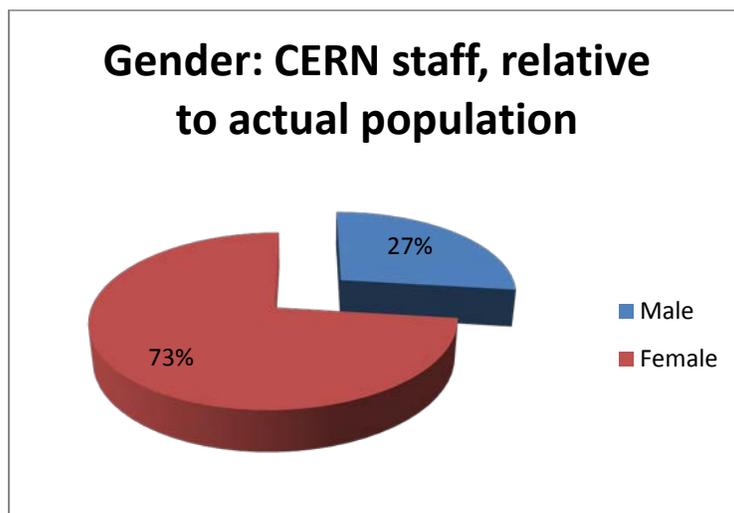


Fig.5: Relative percentage of men and women CERN staff

## Initial contacts

Although the Ombuds is generally available by fixed or mobile phones, it is obvious that visitors prefer to contact him by e-mail. The reasons can be due to confidentiality – one never knows where the person answering with a mobile phone is – or simplicity. The way by e-mail can also offer a first contact which is a bit less direct than a phone call. Even less people dropped by the office directly, although some still did.

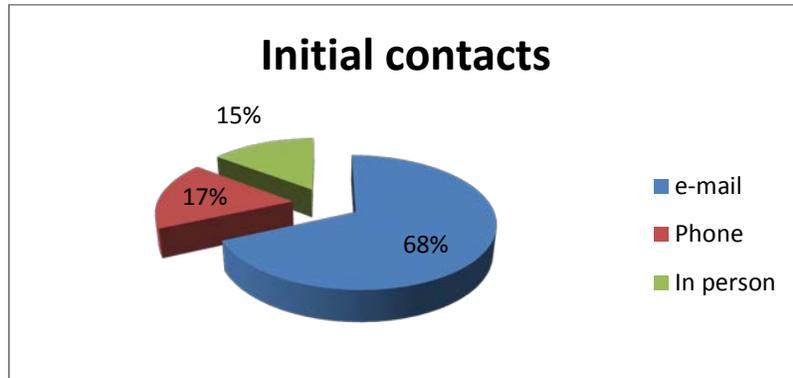


Fig. 6: Percentages of means of first contact with the Ombuds.

## Conclusion

An overall number of 62 cases related to CERN staff over a population of 2328 persons, namely around 2.7% is quite reasonable. There is no organization without conflicts. Comparing as much as possible with other International Organizations, our level of cases is within average. A too low percentage of cases may be the indication that an Organization is putting problems under the rag, and a too high percentage is certainly the sign of too many disputes. CERN looks, as much as it could be asserted in a single year of Ombuds operations, in a quite correct average, on the low side.

The high percentage of women over men is still a concern. This fact should not be forgotten and efforts certainly will have to be developed in that direction with the new Diversity program.

The difference between people under IC and LD contracts is also striking. This Organization should make every effort to gain the confidence of the LD staff concerning the impartiality of its managers.

## 5] Issues raised and taken up by the Ombuds

All together 172 issues were identified, namely an average of 2.1 issues per case.

### Statistics of issues and classification

Nine broad categories have been extracted for this Report from the overall classification of issues established by the International Ombusman Association [IOA]. The purpose of taking the same classification as other International Organizations facilitates the comparison among them. The chosen categories are described in the Appendix I, along with their own respective sub-categories.

Out of them 5 main categories can be seen:

- |  |                  |              |
|--|------------------|--------------|
| • <b>Evaluative relationships</b>                | <b>43 issues</b> | <b>25%</b>   |
| • <b>Career progression &amp; development</b>    | <b>33 issues</b> | <b>19%</b>   |
| • <b>Peers relationship</b>                      | <b>26 issues</b> | <b>15%</b>   |
| • <b>Values, ethics and standards</b>            | <b>20 issues</b> | <b>11.5%</b> |
| • <b>Safety, health and physical environment</b> | <b>17 issues</b> | <b>10%</b>   |

The highest category concerns the relationship between supervisees and supervisors, which represents a quarter of the issues.

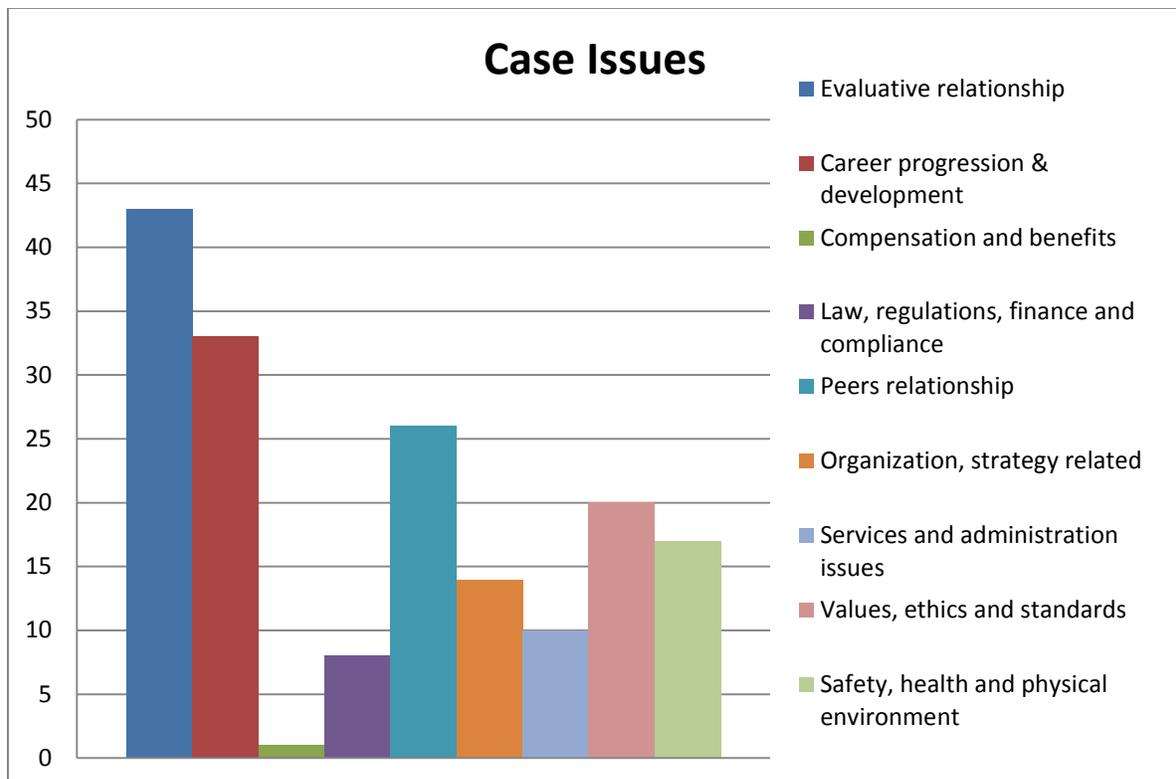


Fig. 7: Number of cases issues.

## Caveat

The present various categories used for getting some information on the statistics of issues should not be considered as fully watertight, as some of them can overlap. For example violations of the standards of the Code of Conduct [CoC] are underlining many problematic issues, even if the visitors have not expressed their concerns in specific terms related to the CoC. However some general conclusions can be derived from the information presented.

## Evaluative relationship

About 25% of the 172 issues reported fell under the category of evaluative relationships; these are concerns arising between managers or supervisors and supervisees.

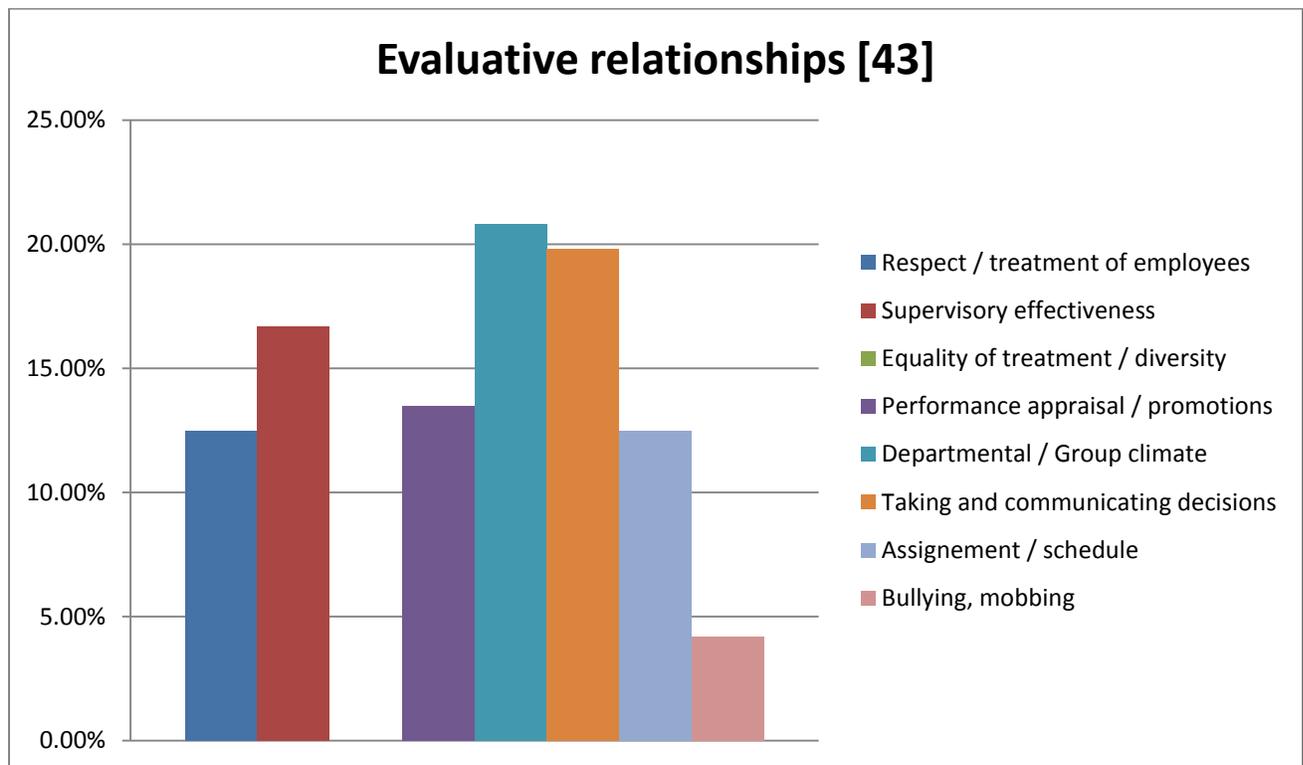


Fig.8: Statistics on sub-issues of Evaluative Relationships

Group climate, communication of decisions and supervisory effectiveness are forming the largest sub-group. Clearly a continuous effort in the training of the supervisors towards better ways of first discussing, communicating, and explaining decisions should be considered. In general one could deduce that some managers, chosen from their excellence in scientific or technical competence, could improve the human side of their management.

Two other factors merit to be noticed. First, the level of bullying and mobbing stay low. This is also generally the case in other International Organizations. This is a sign of good health for the Organization, meaning that only a small fraction of the issues escalate in such disputes.

The cases mentioned have mainly to do with complaints of incorrect moral behavior and some perception of abuse of authority. It should certainly be mentioned that the border between a strong management and a case of abuse of authority is not so well defined. No obvious cases of sexual harassment have been reported to the Ombuds during this year. The Operational Circular on Harassment [OP 9] is still new.

No case has been specifically reported as related to Diversity. However contemplating the striking difference in number of cases between men and women, it would not be correct to believe that there is no case related to equality of treatment or Diversity. It is again probably due to the fact that the new Diversity Program is still in elaboration. The lack of reporting in such terms should call in favor of improving by various means the awareness towards Diversity in our Organization. The nomination of a Diversity Program Leader is obviously an excellent decision towards such direction.

A comment should be offered concerning the performance appraisals, the MARS. An effort should be made by the supervisors to speak the truth. Cases happened where the appraisals were generally good, so the person felt confident that the work done was quite satisfactory and that no need of improvement would be necessary. When then a difficulty finally comes up, such persons have no way to understand why suddenly they are considered as not performing to standards. In addition, as their unsatisfactory performances were never explicitly mentioned, they had no chance of improving their way of working. Some more training should be considered by the supervisors who had none so far, on how to speak the truth to their supervisees in a manner which help them and which they can accept. However, very few direct complaints have been registered concerning disagreement on promotions.

### **Career progression and development**

This category is dominated by the concerns on career development and assignments, which reach almost half of the overall number. Numbers concerning IC or LD boards stay somewhat low. Concerns in internal mobility are not negligible.

Some cases reported the fact that the information which was given to them after a board where they were not selected was not convincing them fully. Whether it is a question of perception or fact, it still remains that such people then started to be persuaded that some wild procedure had been applied. That should be avoided by giving them straight the reasons of their non selection, even if these reasons could be difficult to digest. Such concerns are effectively increased if by mistake the confidentiality of the board is not fully respected. It is quite detrimental if some people, not selected, learn the name of the person selected in corridors, before they had been noticed themselves officially by HR. In cases of boards, only the HRA should be allowed and in charge of giving information, and not the members of the board.

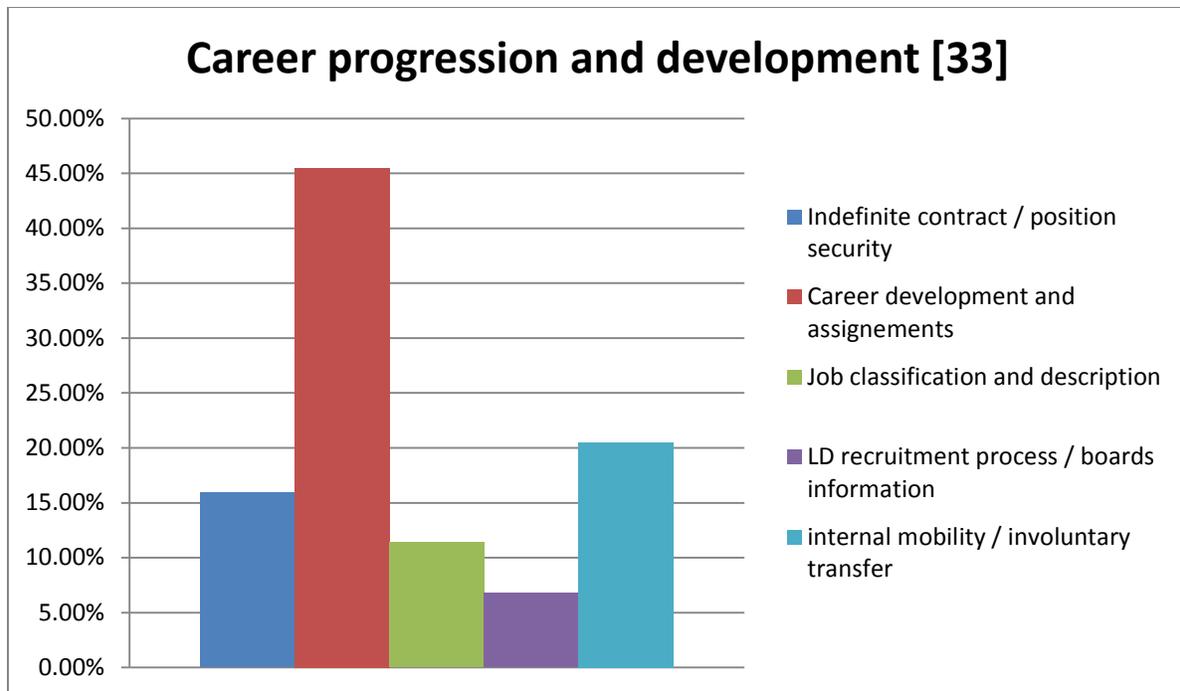


Fig. 9: Statistics on sub-issues of Career and development

The large concern about career development speaks in favor of still improving the culture towards discussion and reflection by the supervisors on the career of their supervisees. More long-term assessments of the career of people would be desirable in order to answer this point.

Concerns about lack of internal mobility are still modest, statistically. It is however surprising that some cases of request for internal mobility took months to be resolved, or be left on the waiting stage under the argument that no position was available in order to make such a transfer possible. It is not a secret for anyone that, due to many factors, CERN does not have yet a practical and efficient strategy concerning internal mobility. It is still stopped administratively by the fact that each Department holds its own posts and practically by the number of tasks that each Department is asked to fulfill. An overall strategy should then be encouraged to be developed in the future if CERN wants to face some dynamics in putting the right people at the right place.

### Peers relationships

The first thing to be noticed is that concerns in between peers are lower than in between supervisees and supervisors. Again communication is spotted as the main item. The following highest sub-issue concerns the role of the managers, which again appears in this category.

It is a good sign that retaliation is very low. On the other hand it could also be that some fear of retaliation has stopped the people to come to the Ombuds.

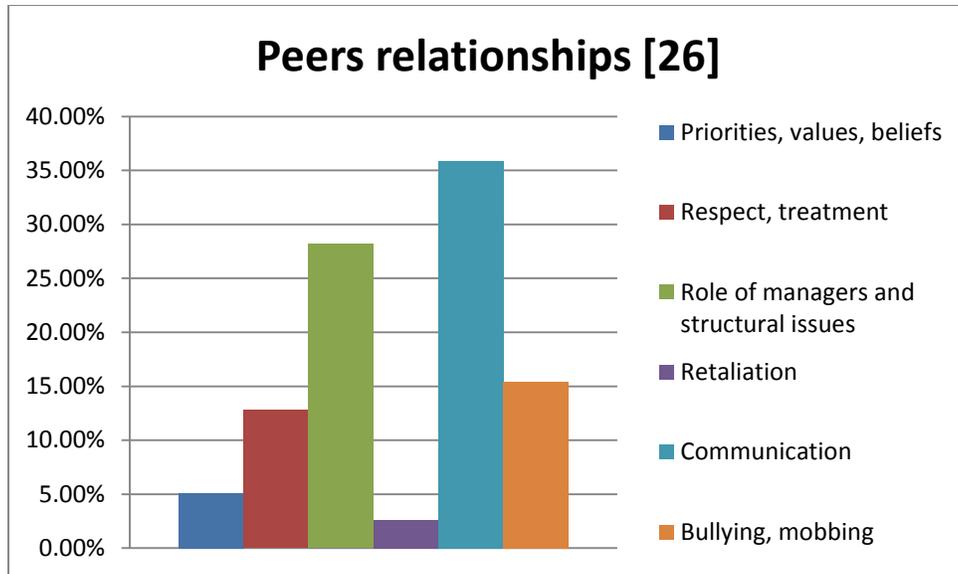


Fig. 10: Statistics on sub-issues of Peers relationships

### Values, ethics and standards

95% of the cases reported in this category have to do with behavior which was not considered by the visitors as compatible with the CERN Code of Conduct [CoC]. The CoC is a call towards a respectful workplace environment. It should be to the honor of everyone working for or in behalf of CERN to follow its recommendations. It remains that almost 20 issues out of 172 have to do with incorrect behavior compared with the CoC. The CoC is the first and main building block for acquiring a culture of correct behavior. Efforts are then continuously required within the Sections, Groups and Departments to promote it at all possible occasions. The CoC appeared in the CERN landscape after many years of its activity. Such a change is apparently not yet digested by everyone in our Organization. It will just take a little more time until some habits disappear.



Fig. 11: Statistics on sub-issues of Career and development

## Safety, health and physical environment

This heading shows that work-related stress is present in our Organization. This is not surprising – it was noted in reports from the Medical Service - in such competitive area of research and technology where the goals to be achieved are multiple and sometimes look “absolute”. Stress related cases are at the level of 7% of the overall issues.

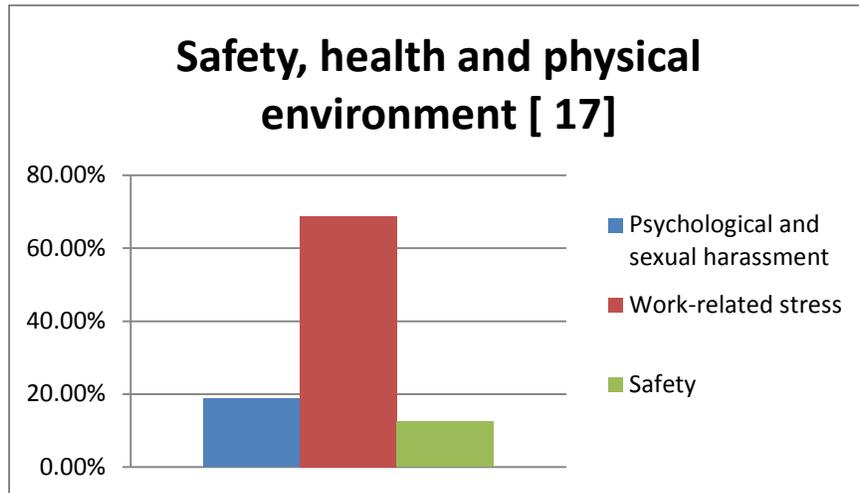


Fig. 11: Statistics on sub-issues of Safety, health and physical environment

## Organization-, strategy related

It is by no mean surprising that the question of the lack of resources comes up in the issue. This cannot be however be considered as a full indicator of a more general feeling, expressed in various contacts which have not been classified in the present study. General climate can be considered as good.

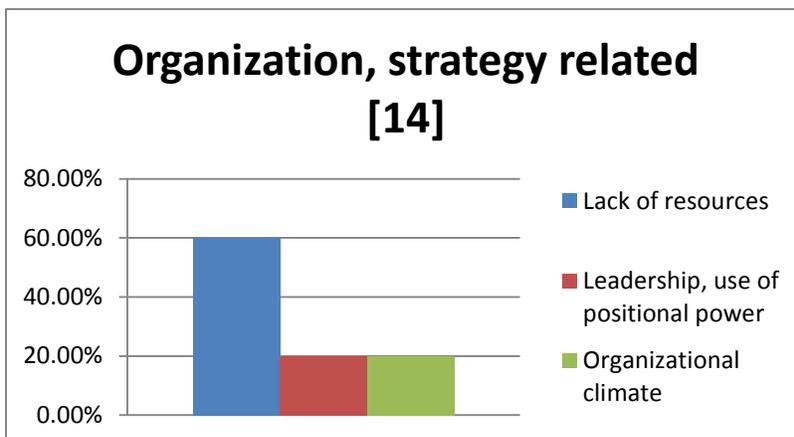


Fig. 11: Statistics on sub-issues of Organization, strategy related

## Other issues

Some minor issues in quantity, however not in seriousness, have been dealt with or are still in process. From its mandate, the Ombuds does not have the prerogative of changing an administrative decision. However he/she can help in the communication in between the parties, so a mutual understanding can be reached.

Services and administrative issues

[10 cases]

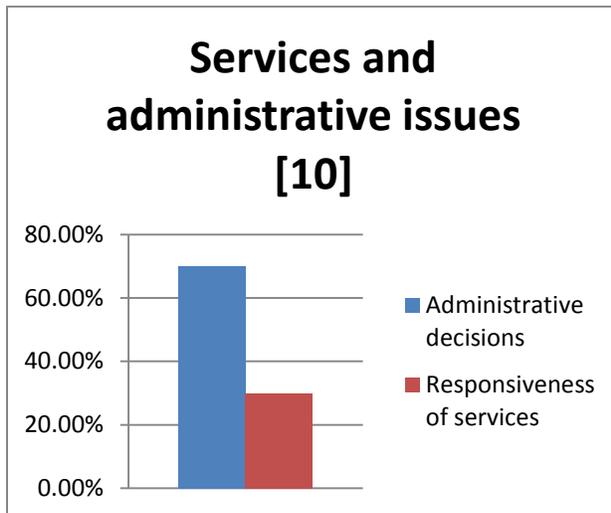


Fig. 12: Statistics on sub-issues of Services and administrative issues.

Law, regulations, finance and compliance

[8 cases]

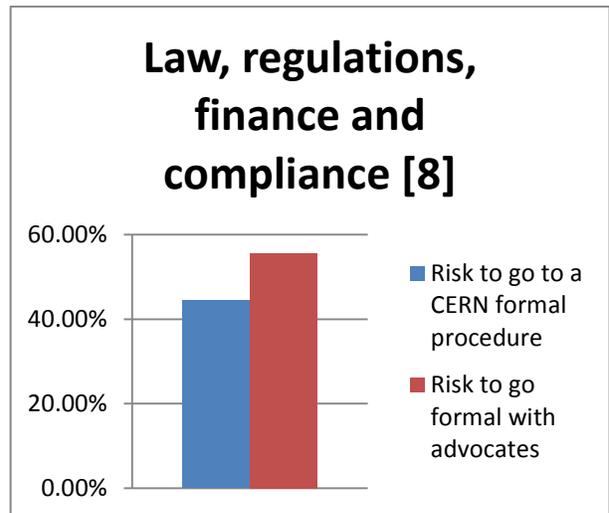


Fig. 13: Statistics on sub-issues of Law, regulations, Finance and compliance.

So far no cases presented to the Ombuds ended up in any formal procedure, and any risk to have them taken up by individual lawyers could be dealt with through informal channels. Although such issues represent only a very low statistics, they could have created a lot of cost in conflict resolution, would they have been pursued to such level.

## 6] Outcomes

Four categories of actions have been considered for this report:

- A simple discussion with the Ombuds where the visitor appreciates to be listened to and can say his/her story. Already that helps a lot many people, they feel that someone in the Organization has heard them. Such discussion acts positively in releasing the pressure from the people.
- An advice / coaching where the discussion is enlarged to a search of possible solution with the help of the Ombuds. In such a case the Ombuds essentially helps the people to help themselves. It is the most current practice.
- An action where the visitor asks the Ombuds to take some practical action, such as meeting other people, representing the person, find some information that the person cannot find by him(her)self or any kind of help
- Mediation in between parties. This case is up to now very rare, as most of the people, after discussion, advices or coaching, prefer to take action by themselves.

The repartition in between these various categories goes as follow:

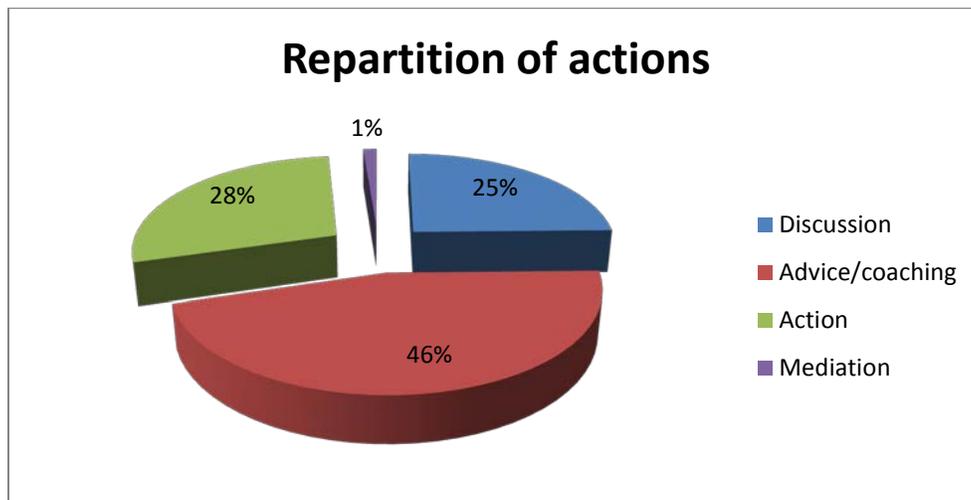


Fig. 14: Repartition of actions

It can be seen from this graph that the most frequent method is related to conflict resolution by coaching. Most of the time it is actually a question of empowering the visitor, who knows what he/she would like to accomplish but does not entirely understand whether or not such action would be appropriate. Verify with a neutral and impartial Ombuds the intended action allows the visitor to take his/her final decision. It should be recalled at this occasion that the Ombuds never takes a decision for the person neither influences him/her strongly. Some cases are however so obvious on the way to follow that the advices from the Ombuds may be more selective in the interest of the person.

Not all cases have been resolved during the year 2010-2011, especially the ones which came near the summer 2011. Around 12% of the cases still need attention. On the other hand 81% of the cases have been resolved or closed. 7% of the cases have been referred to another organism: actions towards transferring people to other Departments have been referred to HR, some cases to the Medical Service, others to the Group Leader or management for action when the workplace relationships are mixed with their positions in the structure of a project, and some cases wanted a decision from HR and no mediation.

As mentioned earlier there has been no formal appeal coming out of the cases where the Ombuds was involved. However it should be said that it is the strict right of the people to go for a formal appeal and that it may happen in the future that the Ombuds faces such cases. It shall remain that such decision belong to the parties themselves and that the mission of the Ombuds is not to stop formal appeals, only to try his/her best to help whenever possible resolving the cases in the informal way.

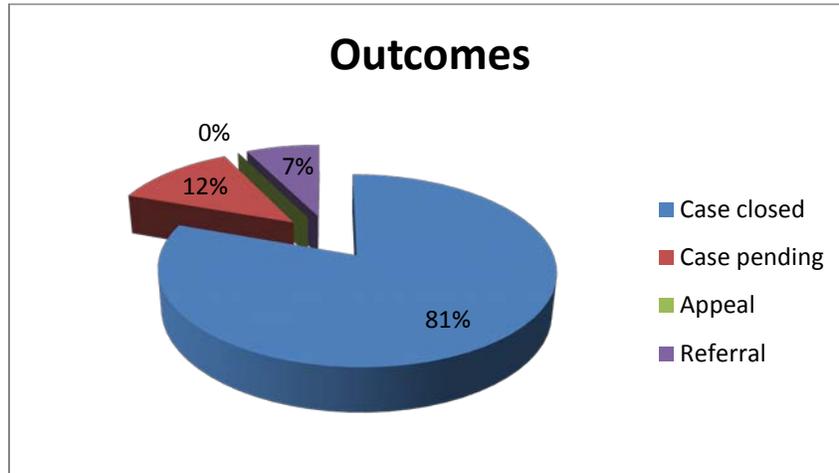


Fig. 15: Repartition of outcomes

## 7] Additional Ombuds activities

The year 2010-2011 was the first year of an Ombuds activity at CERN. Evidently, time had to be spent on information on the function by elaborating a web site and educative stories on the Bulletin, raising the awareness concerning the Ombuds mandate, meeting the CERN Directorate and all Departments, getting in contacts with the other CERN instances concerned with the CERN personnel and User's, following necessary training on Ombuds and mediation and fostering close contacts with the various Ombudspersons of the International Organizations and Associations.

The principal activities include:

### Training

- Six days of training on “Mediation in the workplace Units 1 & 2: Facilitating a Mediation Session and Uses of Mediation in the Workplace”, by the Professional Mediation Resolutions Ltd in Regents College, Regents Park, London, 11-13<sup>th</sup> October and 17-19<sup>th</sup> November 2010. The publication of two reports was recognized by 6 credits at the level 3 of the OCN Certificate accredited by the National Open College Network, registration No 9377199.
- Two days of “Ombudsman 101” training, given by the International Ombudsman Association [IOA], UNESCO, Paris, September 2010.
- “Mediation and the Ombudsman” training by the IOA, UNESCO, Paris, September 2010.
- “Ombudsman 101 plus” training by the IOA, Portland, Oregon, USA, April 2011.
- “Resolving Workplace Bullying: A New Approach for Ombudsmen” by the IOA, Portland, Oregon, USA, April 2011

### Information given

- Joined elaboration of the Ombuds mandate with HR and Legal Service
- Web site <http://cern.ch/ombuds>
- Several (13) educative novels in the CERN Bulletin under the column “Ombuds Corner”
- Flyer on the CERN Ombuds distributed to everyone at CERN
- Poster on the CERN Ombuds sent to all Secretariats
- Public presentation of the Ombuds function in the CERN Auditorium in a HR Open Meeting
- Presentation of the Ombuds function and role in ACCU, December 2010
- Presentations of the Ombuds function in all Management Meetings of the CERN Departments
- Presentation of the Ombuds role in the Induction Program for CERN newcomers
- Elaboration of slides on informal and formal conflict resolution, Code of Conduct and Ombuds for the CERN Core Package for Managers, presentation in such a meeting and in all CERN Management Meetings of the Departments
- Elaboration of two guides for managers and complainants on “Dealing with harassment” (in discussion)

## International contacts

Contacts with the Ombudspersons of the International Organizations and Associations are essential for several reasons: exchange of information, access to reports, comparison of number of cases, advices on problematic, in addition to the rewarding personal links with professionals in the Ombuds world. In addition, this is also the occasion of promoting the good image of CERN, as it is among the International Organizations the only scientific one at the moment. People from other Institutions are very interested in knowing about CERN.

The CERN Ombuds is a full member of:

- IOA: the International Ombudsman Association. As a consequence the Ombuds agreed to follow the Code of Ethics and the Standards of Practice of this Association. His/her mandate has then an international legitimacy, as such Association requires for being a full member that a mandate or terms of reference specifying the rules to be followed by the member exists, be published on the web and checked by the IOA.
- UNARIO: the United Nations And Related International Ombudsman group. This group contains Ombudsman from the UN and related Organizations, UNHCR, WPRO, WHO, PAHO, ICRC, WFP, WIPO, UIT, UNESCO, IOM, ILO, World Bank Group, IMF, Inter-American Development Bank, ICAO, Global Fund to Fight Aids, African Development Bank, and CERN.
- UNARIO “Geneva Group”. The Ombudspersons of the International Organizations having a center in Geneva meet every month. Such gathering allows all of us to exchange considerations. Such a forum is essential for Ombuds who cannot speak with anyone due to the clause of confidentiality. (Photo: thanks to Catherine Michel-Baussay / WHO)



*Some members of the UNARIO “Geneva Group” in the UN Ombuds quarters.*

The Ombuds took contacts with the Medical Service and the psychologist, the Legal Service, the Social Service, and entertains regular relationships with the Human Resources Department and the CERN Staff Association. In such contacts, everyone's confidentiality is fully respected.

The Ombuds was fortunate enough to be able to attend several conferences:

- UNARIO Meeting, WFP, Roma, Italy, July 2010
- UNARIO Ninth Annual Meeting, UNESCO, Paris, France, 8-10 September 2010
- “Conflict resolution in the International Organization”, World Bank, Washington DC, USA, 14-16 March 2011
- 6<sup>th</sup> Annual Conference of the IOA, Portland, Oregon, USA, 1-6 April 2011
- Monthly meetings with the UNARIO “Geneva Group”

Personal training took also place and not less than 23 books on Ombuds, mediation, conflict resolution, harassment have been read by the Ombuds in order to increase his knowledge of the domain, as it was quite new compared with his previous occupations.

As resources permit, the Ombuds intends in the future to continue his training with the IOA specific courses, and a further course on Mediation with Teams, as well as going to the annual meetings of UNARIO and IOA, and also to join the European Ombudsman Association, a branch of the IOA, as well as local organizations on mediation.

This first year has then be very rich in training, working on awareness towards the Ombuds function and participation to the International Organization of Ombudsman, which surely noticed the appearance in their landscape of CERN. They heard so many times about our Organization and knew it from its scientific high reputation. Now CERN is also part of this network, in a quite different field.



*At the UNARIO Meeting in UNESCO in September 2010*

## 8] General observations

With this first annual report, I express the hope that such publication would represent an open conversation between the Ombuds and everyone who works for or in behalf of CERN. In fact this report is a critical part of the Ombuds work as it provides the opportunity to describe the level of activity of the Ombuds and to communicate with the Organization at large on an annual basis.

The report is also a way to encourage changes over time, to initiate discussion and debate within the CERN community, following an honest and critical self-examination. The present impressions and conclusions are based on listening to many voices and concerns, contacts through the Organization and to convey some concerns towards the items which seemed the most important. It is of course obvious that such an analysis contains some aspects which could be conveyed with a personal sense. In future years it will then be possible to compare further results with the preliminary ones obtained during a single, and first, year of operation and see if the Code of Conduct penetrates everyone's mind and action.

In this section I would like to:

- Share good news about the health of our Organization
- Discuss some concerns
- Risk few recommendations in the spirit of participating in some improvement towards an even better respectful workplace environment

### **Let us start by the good news.**

As mentioned earlier, less than 3% of the staff used the services of the Ombuds. This is certainly within the average of other International Organizations and does not represent a surprising number as no Organization can function without conflicts. A much smaller number could mean that our Organization would have a tendency of hiding its interactive problems, or worse would prevent them to be treated and overcome. Of course a too large fraction would certainly mean that big systemic concerns should be dealt with within the Organization. People have generally a negative perception of conflicts which give rise to fear. Conflicts have a great positive side, as they allow an Organization to discover, to enlighten its problems and so to approach them in a view of resolving them, improving the relationships in its workplace.

The number of Users who contacted the Ombuds stayed low. I would imagine that, if many Users would be unhappy about the way CERN is treating its collaborators that this number would be much higher. In a year a single complaint came from someone belonging to an industrial service contract.

Given the fact that the policy on harassment is quite new, very few cases have been expressed in terms of presumed harassment. No real case of sexual harassment came up during the period. One should remember that such terms as bullying, mobbing or harassment in general, including the abuse of authority which is part of the moral harassment, have precisely identified definitions and should be employed with caution. Before any investigation, the terms of presumed harassment, alleged victim and alleged harasser should be preferred.

The great majority of the cases could be either resolved or closed. In itself this proves the utility of the function, as no one could predict if such cases would not have inflated if they would not have been attended in a confidential manner. Cost of disputes could be very high if not taken seriously in hands right from the beginning, including the most important cost, the human cost. A quarter of the cases ended up only in a discussion which is an indication that the Ombuds office is a zero-barrier office. Several visitors even took care in passing by the Ombuds office to express that their situation had improved and that they were thankful for the discussions, advices or actions. This is the rewarding part of the job.

In his presentations to the Departments, the Ombuds has been quite welcome and his independence has been so far totally respected by the high Management and Director General. The function benefits from the support of its managers, which is a very good sign and brings high hopes that a culture of respect in between everyone is a reachable goal in our Organization. Actually one is forced to admit that this is still not fully the case and that a margin for improvement still exists. This is actually not surprising as the introduction of the Code of Conduct and Ombuds function is relatively recent, only one year. Some International Organizations would consider that such changes can be digested only in few years.

The collaboration with the Human Resources Department has been constantly improving and the first fear of having the Ombuds treading on the HR shoes has mostly disappeared. I wish to mention with great pleasure and satisfaction that the collaboration with the Head of the HR Department and with the Staff Association has been extremely good, still of course respecting the confidentiality of the cases. The relationships with all personnel was easy and actually nobody refused to help the Ombuds, sometimes however after some convincing short discussion. In general the welcome was quite good. Lots of people mentioned in corridors or in passing by that they were quite happy that such function exists at CERN. So probably the simple fact to have in our Organization an office with a zero-barrier access, independent, neutral, confidential, contributes to an amelioration of the human relationships, as the people know that they could be heard in full confidentiality. Effectively talking to the Ombuds does not represent any official notice to the Organization.

### **Some concerns**

Even if the operation of the Ombuds function is only one year old, some concerns can be extracted from the messages which were transmitted to the Ombuds and from the analysis of the difficulties encountered.

1] Although the Code of Conduct must be by now known by everyone, there are still people who should better align their actions to it. It is even more surprising that such contradictions between the recommendations towards a respectful behavior and actions on the field could be found within the class of supervisors. Some cases were found to be more consistent with a sort of abuse of authority than with a hard, clear and correct management. The main goal of CERN is towards science at large, whether it is research, teaching, transfer of knowledge and technology and people are extremely competent in these domains. Excellence in human management and relationship remains to be achieved and managers, supervisors, at each level should give the

good example in their language and actions. If it would not be the case, somewhat stronger reactions from the hierarchy should be expected.

2] The low level of practical possibilities for Internal Transfer in between the CERN Departments and Sectors is also a concern as it gives rises to dissatisfaction expressed to the Ombuds. This fact might have several causes. The present situation shows that the numbers of staff positions considered as the property of the Departments are almost frozen. Some transfers, even if they turn out to be desirable for efficiency, are often blocked by the difficulty of creating a loss of a position. On the other hand, the tasks that each Department has to fulfill are quite essential and numerous, so the problem is not simple. Another difficulty is that the management of the Human Resources falls under the responsibility of a Department, situated on the same hierarchical level than the other Departments. Arbitration in terms of transfers could be more transparent by having a consensus to accept decisions coming from a higher authority.

3] In terms of respective percentages related to the actual population, the number of cases related to women is much higher than the ones related to men. It probably calls for the intended future program towards Diversity. The number of cases related to people holding a Limited Duration contract is strikingly lower than the ones related to people with an Indefinite Contract. It could mean that the fear for retaliation has not yet disappeared. Not only efforts have to be continuously done in trying to eradicate such fear, but actual tries of threat of retaliation should not be allowed and action should be taken against such attitude.

4] The numbers of contacts in between the Ombuds and the high CERN Management could be a bit more frequent. Due to his function the Ombuds acts also as a sounding board of the CERN population and some feedback, still within the rule of strict confidentiality in terms of persons or cases, can be given to the deciding bodies.

5] There have been some cases related to the MARS interviews. It is very obvious that to tell the truth to someone is a difficult exercise. This exercise will become even more delicate with the introduction of the Competency Model. There is some concern that the supervisors might not be fully prepared towards such practice, which requires skills in interaction, communication, language, clarity and courage, in order to pass a message which could be accepted by the supervisee and not seen purely in terms of criticism. Two tendencies could be seen: the assessment is too flat or complimentary, or is really too negative. The correct balance to find and to transmit during the interview, especially when it comes to the soft skills, is not easy to find. It is not obvious that all supervisors will be at ease with that.

6] Direct interactions person to person are preferable to e-mails. First, an increase of e-mail exchange in a unit should be considered as an alarm for a latent possible conflict. It came to the knowledge of the Ombuds that some e-mails have really acted as oil on the fire, while a good frank, even painful discussion would have help towards a mutual understanding. Like any other big Organization CERN is witnessing a lot of exchanges by e-mail which tend to reduce the human contact and in turn favor the appearance of conflicts.

During the year some other concerns, more specific, have been transmitted to the HR Department as confidential notes for their consideration. It should be recalled that the Ombuds proposes, but the management decides.

## **Few recommendations**

Given the concerns outlined above, some recommendations can be offered to the management:

1] CERN has several courses in management. Some more specific training for managers on the conflict resolution methods and more particularly on the methods and ways to approach the techniques of mediation would be highly welcome. Such training is already considered and the Ombuds would very much support it. Why? Facing a problem, a manager has the natural tendency to react in acting rapidly, persuaded that his/her role is to solution himself the problems. The manager may then act in following the views given by a party and forget to first establish the truth in contacting the various people connected to the issue. Mediation techniques are very useful even outside of the specific frame of the mediation process.

2] The questions related to ethics and to the Code of Conduct are essential to drive our Organization even closer to a respectful environment place. Good ethics and respectful behavior should be taken into consideration and checked upon in many areas: in the hiring boards for LD and IC positions, in the MARS interviews and consequent promotions, the choice of managers. Such an effort is certainly supported by the Competence Skills model which will be fully introduced as next year. It is obvious that the managers should follow the Code of Conduct. However action from the hierarchy in cases of established violation of ethics or bad behavior should still be applied if this Organization wants seriously to progress everywhere in its internal human relationships.

3] The important point of the Internal Mobility has been debated at CERN from a long time. It is however noticeable that no appropriate solutions have been found so far. Patches have been developed, and are certainly useful in avoiding a total immobility, but do not represent long-term solutions. Effectively in case of an Internal Transfer the long-term issue subsists even if few months can be supported by a special fund. Some studies, using past data, would help in determining if on the long-range an even balance could be reached after few or many exchanges of people in between Departments and Sectors. Other strategies, outside the actual model of having defined manpower numbers in Sectors, could be explored, as it is not obvious to fully understand the real reasons why a little bit more freedom in transfers could not be considered. Such alleviation would probably be beneficial in terms of the overall efficiency of the Organization.

4] Questions related to career development have also appeared in the discussions with the Ombuds. Discussions on the long-term career development of the supervisees, at various levels, should be supported to favor the most adequate strategy concerning the future of the employees and to spot the next leading managers. Such trend already exists and could be more encouraged.

5] Several situations of stress, due to various causes, have been explained to the Ombuds. Training in stress management exists at CERN but is probably not used enough or early enough by the personnel. Although normal and positive stress may be considered as a factor of energetic efficiency, managers would be advised to detect and follow more closely situations where the stress starts to be a negative factor on people and should probably encourage more their supervisees to be attentive to such factor, and favor in such cases the use of the existing training program.

## 9] Conclusions and outlook

The function of Ombuds is new at CERN. A single year of activity is obviously a too short time to get definite conclusions or recommendations. To this respect it will be most interesting to see the trend on the various issues in the coming years, comparing the data with the ones of this first year.

Managers occupy fundamental key positions at CERN. Any change in our Organization will ultimately be in their hands. Continuous efforts have to be developed to support them with training, coaching and mentoring programs. According to the statistics presented in this report, 25% of the issues at least have to do with the evaluative relationships, namely issues between supervisees and supervisors or managers. It is interesting to quote the Report of the Secretary-General of the United Nations to the sixty-fifth session of the General Assembly [A/65/332, 31 August 2010] on “Measures taken to address systemic human resources issues raised by the Office of the United Nations Ombudsman and Mediation Services”:

*“It is important that managers be selected and recognized not only for their ability to deliver programmatically but also for their ability to create an organizational structure that does not tolerate harassment, discrimination or abuse by the management or others.*

*It is important that candidates for positions with supervisory responsibilities be selected for and appraised on the quality of their management skills, as well as their technical and other abilities.”*

The number of cases is just an indication of the well-being of an Organization. To this regard CERN can be considered as an attractive place, as less than 3% of the staff reporting issues to the Ombuds is quite usual compared with other Organizations. This number will never be zero, as any Organization need conflicts in order to resolve them. It still remains that in some areas, respect and good behavior can still be improved. It is hoped that the function and the work of the Ombuds will positively contribute to such amelioration.

In conclusion I would like to offer a comment. I am not without suspecting that some people could only assert the work of the Ombuds from the number of cases treated within the year. This is understandable in an Organization which puts a lot of emphasis on its deliverables. This is not really comparable for example to the number of muon chambers delivered by an experiment. In the Standard Model we have the quarks. But no quark would make matter unless there are also gluons. A big part of the Ombuds role is similar to the gluons, holding matter together. Various contacts, informal discussions, presence also participates in creating an ambiance of good human relationships.

Future? The Ombuds will continue his mission of serving everyone working for or in behalf of CERN following his mandate: *“The services of an Ombuds may help to resolve disputes in a consensual and impartial manner, thus promoting the good functioning of the Organization”*.

**And citing Rolf Heuer, Director-general:**

*“We each take responsibility for living the CERN values, ensuring that CERN continues to pursue its mission in a manner that inspires trust and respect while maintaining a healthy and stimulating environment for all.”*

## APPENDIX I: Classification of issues along the International Ombudsman Association

<b>Ident</b>	<b>Case Issue</b>	<b>Subject</b>
<b>10</b>	<b>Evaluative relationship</b>	<b>Supervisor vs supervisee</b>
11	Respect / treatment of employees	
12	Supervisory effectiveness	
13	Equality of treatment / diversity	
14	Performance appraisal / promotions	
15	Departmental / Group climate	
16	Taking and communicating decisions	
17	Assignment / schedule	
18	Bullying, mobbing	
<b>20</b>	<b>Career progression and development</b>	<b>Decisions concerning a job</b>
21	Indefinite contract / position security	
22	Career development and assignments	
23	Job classification and description	
24	LD recruitment process / boards information	
25	Internal mobility / involuntary transfer	
<b>30</b>	<b>Compensation and benefits</b>	<b>Examples: payroll, salary</b>
31	Salary scale	
<b>40</b>	<b>Law, regulations, finance and compliance</b>	<b>Legal risk, go formal</b>
41	Risk to go to a CERN formal procedure	
42	Risk to go formal with lawyers	
<b>50</b>	<b>Peers relationships</b>	<b>Relations among peers</b>
51	Priorities, values, beliefs	
52	Respect, treatment	
53	Role of managers and structural issues	
54	Retaliation	
55	Communication	
56	Bullying, mobbing	
<b>60</b>	<b>Organization, strategy related</b>	<b>Systemic issues related to CERN</b>
61	Lack of resources	
62	Leadership, use of positional power	
63	Organizational climate	
<b>70</b>	<b>Services and administrative issues</b>	<b>Policy, administrative decisions</b>
71	Administrative decisions	
72	Responsiveness of services	
<b>80</b>	<b>Values, ethics and standards</b>	<b>Fairness, CoC</b>
81	Standards of conduct, Code of Conduct related	
82	Values and culture	
<b>90</b>	<b>Safety, health and physical environment</b>	<b>Related to physical safety</b>
91	Psychological and sexual harassment	
92	Work-related stress	
93	Safety	