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16. Believes that Article 182(5) of the Treaty on the Functioning of the European Union, as inserted by the Treaty of Lisbon, which establishes measures necessary for the implementation of the European research area, could provide a more appropriate legal basis for future joint programming initiatives in the field of research; calls on the Commission to consider seriously using Article 182(5) as a legal basis for all future proposals for joint programming of research activities;

17. Instructs its President to forward this resolution to the Council, the Commission and the governments and parliaments of the Member States.

The European Ombudsman's activities (2008)

P7_TA(2009)0066

European Parliament resolution of 12 November 2009 on the annual report on the European Ombudsman's activities in 2008 (2009/2088(INI))

(2010/C 271 E/04)

The European Parliament,

- having regard to the annual report on the European Ombudsman's activities in 2008,
- having regard to Article 195 of the EC Treaty,
- having regard to Articles 41 and 43 of the Charter of Fundamental Rights of the European Union,
- having regard to its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽¹⁾,
- having regard to the framework agreement on cooperation concluded between the European Parliament and the Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
- having regard to the Commission's communication of 5 October 2005 entitled 'Empowerment to adopt and transmit communications to the European Ombudsman and authorise civil servants to appear before the European Ombudsman' (SEC(2005)1227),
- having regard to its Decision 2008/587/EC of 18 June 2008 amending Decision 94/262/ECSC, EC, Euratom on the regulations and general conditions governing the performance of the Ombudsman's duties ⁽²⁾,
- having regard to the revision by the Ombudsman of his implementing provisions in order to reflect the changes to the Statute, which revised implementing provisions came into force on 1 January 2009,
- having regard to its previous resolutions on the European Ombudsman's activities,
- having regard to Rule 205(2), second and third sentences, of its Rules of Procedure,
- having regard to the report of the Committee on Petitions (A7-0020/2009),

⁽¹⁾ OJ L 113, 4.5.1994, p. 15.

⁽²⁾ OJ L 189, 17.7.2008, p. 25.

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- A. whereas the annual report on the European Ombudsman's activities in 2008 was formally submitted to the President of Parliament on 21 April 2009 and whereas the Ombudsman, Mr Nikiforos Diamandouros, presented the report to the Committee on Petitions in Strasbourg on 14 September 2009,
- B. whereas Article 41 of the Charter of Fundamental Rights (2007 version) states: 'Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union',
- C. whereas Article 43 of the Charter (2007 version) states: 'Any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the European Ombudsman cases of maladministration in the activities of the institutions, bodies, offices or agencies of the Union, with the exception of the Court of Justice of the European Union acting in its judicial role',
- D. whereas it is essential that the European institutions and bodies make full use of the necessary resources in order to fulfil their obligation to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions,
- E. whereas, although eight years have passed since the adoption of Parliament's resolution of 6 September 2001 ⁽¹⁾ approving the Ombudsman's Code of Good Administrative Behaviour, the other main institutions have not yet fully complied with Parliament's request that they bring their practice into line with the provisions of that code,
- F. whereas the Ombudsman registered 3 406 complaints in 2008, compared to 3 211 in 2007, and whereas 802 complaints, compared to 870 in 2007, were found to be within the Ombudsman's mandate,
- G. whereas the findings of the 355 completed inquiries, of which 352 were linked to complaints and three were own-initiative investigations, show that in 110 cases (corresponding to 31 % of the complaints investigated) no maladministration was ascertained,
- H. whereas in 129 cases (36 % of the total) closed in 2008, the institution concerned accepted a friendly solution or settled the matter, which shows a strong willingness on the part of the institutions and bodies to see complaints to the Ombudsman as an opportunity to remedy mistakes that have occurred and to cooperate with the Ombudsman for the benefit of citizens,
- I. whereas four cases were closed in 2008 after an amicable resolution had been achieved and whereas, at the end of 2008, 25 proposals for amicable solutions were still under consideration,
- J. whereas the most common allegation of maladministration dealt with by the Ombudsman in 2008 was lack of transparency (in 36 % of inquiries opened),
- K. whereas in 2008 the Ombudsman increasingly made use of more informal procedures aimed at the prompt resolution of complaints, which proves the extent to which the Ombudsman is respected and demonstrates the institutions' readiness to help citizens,
- L. whereas in 2008 the Ombudsman closed 44 inquiries with critical remarks, and whereas a critical remark confirms to the complainant that his or her complaint is justified and indicates to the institution or body concerned what it has done wrong, so as to help it avoid maladministration in the future,

⁽¹⁾ European Parliament resolution on the European Ombudsman's Special Report to the European Parliament following the own-initiative inquiry into the existence and the public accessibility, in the different Community institutions and bodies, of a Code of Good Administrative Behaviour (OJ C 72 E, 21.3.2002, p. 331).

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- M. whereas it is with a view to improving the EU institutions' performance in the future that the Ombudsman has made increasing use of further remarks by which he identifies an opportunity to enhance the quality of the administration, and whereas further remarks were made in a total of 41 cases in 2008,
- N. whereas 23 draft recommendations were issued in 2008, of which eight were accepted by the institution concerned, and whereas four draft recommendations from 2007 led to a decision in 2008,
- O. whereas one case of maladministration led to a special report to the European Parliament in 2008, and whereas submitting a special report to Parliament represents a valuable means by which the Ombudsman can seek the political support of Parliament and its Committee on Petitions in order to bring satisfaction to citizens whose rights have been infringed, as well as promoting the improvement of standards of EU administration,
- P. whereas neither the critical remarks contained in decisions closing irremediable cases of maladministration, nor recommendations or special reports by the Ombudsman, have binding effect, as his powers do not extend to directly remedying instances of maladministration but are intended to encourage self-regulation on the part of the European Union's institutions and bodies,
- Q. whereas, since the entry into force of the Treaty of Nice, Parliament has enjoyed the same right as the Member States, the Council and the Commission to bring an action before the Court of Justice of the European Communities on grounds of lack of competence, infringement of an essential procedural requirement, infringement of the EC Treaty or of any rule of law relating to its application, or misuse of powers,
- R. whereas the critical comments regarding maladministration voiced by the Ombudsman in the 2008 report (critical remarks, draft recommendations and special report) may serve as a basis for avoiding a repetition of errors and malfunctions in future by the implementation of appropriate measures by the institutions and other bodies of the European Union,
- S. whereas the cooperation established by the Ombudsman within the European Network of Ombudsmen has functioned for over ten years as a flexible system for exchanging information and best practice and as a means of re-directing complainants to the ombudsmen or other similar bodies most able to assist them,
- T. whereas the role of the Ombudsman in protecting the interests of EU citizens in the face of the institutions and bodies of the European Union has evolved in the 14 years since the office was created, thanks to the Ombudsman's independence and Parliament's democratic scrutiny of the transparency of his activities,
- U. whereas the activities of the Ombudsman and of the Committee on Petitions must remain separate and – as a general rule aimed at avoiding potential conflicts as regards their respective prerogatives – should include reciprocal referral of their respective files,
1. Approves the annual report for the year 2008 presented by the European Ombudsman and its structure, combining a summary of the year's activities with an overview of the complaints and inquiries and a thematic analysis of the Ombudsman's decisions, covering the most significant findings of law and fact contained in the Ombudsman's decisions in 2008, as well as the problems raised at various stages of the procedure;
 2. Considers that clearer presentation of the statistical data, including the new method of calculating and the new layout, has made the report more comprehensible, accessible and user-friendly;

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3. Calls for all EU institutions and bodies to be given the necessary budgetary and human resources to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions;
4. Considers that the Ombudsman has continued to exercise his powers in an active and balanced way, both with regard to examining and handling complaints and conducting and concluding enquiries and with regard to maintaining constructive relations with the European Union's institutions and bodies and encouraging citizens to make use of their rights in relation to those institutions and bodies;
5. Calls on the Ombudsman to pursue his efforts in raising awareness of his work and to promote his activities effectively and transparently;
6. Considers that the term 'maladministration' should continue to be broadly interpreted so as to include not only infringements of legal rules or general principles of European administrative law, such as objectivity, proportionality and equality, non-discrimination, and respect for human rights and fundamental freedoms, but also instances where an institution fails to act consistently and in good faith, or to take into account the legitimate expectations of citizens, including when an institution has itself undertaken to respect certain norms and standards without being obliged to do so by the Treaties or secondary legislation;
7. Regards the role of the Ombudsman in enhancing openness and accountability in the decision-making processes and administration of the European Union as an essential contribution towards a Union in which decisions are taken 'as openly as possible and as closely as possible to the citizen', as provided for in Article 1(2) of the Treaty on European Union;
8. Repeats its call, expressed in previous resolutions, for all EU institutions and bodies to adopt a common approach with regard to the Code of Good Administrative Behaviour;
9. Notes that the Code of Good Administrative Behaviour proposed by the Ombudsman, as approved by Parliament on 6 September 2001, serves as a guide and resource for the staff of all Community institutions and bodies and has been regularly updated and published on the Ombudsman's website;
10. Welcomes the revision of the Ombudsman's Statute, in particular the Ombudsman's strengthened powers of investigation which will help to ensure that citizens can have full confidence in his ability to conduct a thorough investigation of their complaints without restrictions;
11. Stresses the need to contribute to the public understanding of the duties of the Ombudsman by providing citizens, companies, non-governmental organisations and other entities with information, and considers that easily understood, accurate and high-quality information may help to reduce the number of complaints which do not fall within the Ombudsman's mandate;
12. Considers that the figure in respect of inadmissible complaints remains unsatisfactory although understandable, and recommends in view of this that a continued information campaign be conducted amongst European citizens designed to raise their awareness of the functions and competence of the members of the European Network of Ombudsmen;
13. Recognises the Ombudsman's efforts to improve the institutions' performance and his endeavours aimed at further shortening the current average length of inquiry of 13 months;
14. Welcomes the constructive cooperation between the Ombudsman and the EU institutions and bodies and endorses him in his role of external control mechanism and, in addition, as a valuable source of ongoing improvement to European administration;
15. Welcomes the signing on 9 July 2008 of a Memorandum of Understanding between the Ombudsman and the European Investment Bank and the agreement by the Union's agencies to adopt the European Code of Good Administrative Behaviour in their relations with citizens;

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16. Calls on the Ombudsman to maintain a watching brief and ensure that the Commission makes proper use of its discretionary powers to initiate infringement proceedings under Article 226 of the EC Treaty or to propose penalties under Article 228 of the EC Treaty, while taking scrupulous care to avoid delays or unjustifiable failure to take prompt action, which are incompatible with the Commission's powers to oversee the application of EU law, and requests that he continue to liaise with the Committee on Petitions in this connection;

17. Reiterates its view that, if an institution refuses to follow a recommendation contained in a special report by the Ombudsman despite Parliament having approved that recommendation, Parliament could legitimately use its powers to bring an action before the Court of Justice in respect of the act or omission which was the subject of the Ombudsman's recommendation; invites the committee responsible for the Rules of Procedure to propose appropriate provisions, to be introduced into the Rules, for the initiation of such an action;

18. Notes that the Ombudsman has presented a special report criticising the Commission for having failed adequately to justify its treatment of freelance auxiliary conference interpreters over 65 years of age, on which Parliament adopted a resolution on 5 May 2009 ⁽¹⁾;

19. Considers that, when the Ombudsman and the Committee on Petitions, acting within their respective mandates and competences, investigate overlapping issues, such as, respectively, the manner in which the Commission has conducted infringement proceedings and the alleged infringement itself, they can achieve a much more useful synergy through close cooperation;

20. Welcomes the excellent relationship between the Ombudsman and the Committee on Petitions within the institutional frameworks as regards reciprocal respect of competences and prerogatives;

21. Recognises the useful contribution made by the European Network of Ombudsmen, of which the Committee on Petitions is a member, in line with the principle of subsidiarity, in securing extra-judicial remedies; welcomes the collaboration between the European Ombudsman and ombudsmen and similar bodies at national, regional and local levels in the Member States, and urges further strengthening of the exchange of best practice, thereby allowing for the rapid spread of best practices among Member States;

22. Welcomes the publication on the Ombudsman's website in 2008 of two studies regarding the follow-up given by the institutions concerned to critical and further remarks made in 2006 and 2007;

23. Encourages the Ombudsman to continue to place great emphasis on events involving information for citizens and, hence, potential complainants, since it is clear that the demarcation of responsibilities and decision-making processes between the European, national and regional levels is still too confusing and hard to grasp for many citizens and businesses;

24. Welcomes the enhanced information campaign promoted by the communications strategy adopted by the Ombudsman, which leads to greater awareness of citizens' rights and Community competences, as well as a greater understanding of the Ombudsman's sphere of competence;

25. Notes that each institution has its own website enabling complaints, petitions, etc. to be lodged, and that this can frustrate citizens in distinguishing between the various institutions; supports, therefore, the development of an interactive manual designed to assist citizens in identifying the most suitable forum for resolving their problems;

26. Welcomes the Ombudsman's new website as a very substantial response to this issue;

⁽¹⁾ Texts adopted, P6_TA(2009)0340.

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27. Suggests that this idea be developed further, and that a common website of the European institutions be put in place to help citizens and refer them directly to the institution competent to handle their complaint, thereby reducing the number of inadmissible complaints filed with the European Ombudsman;

28. Calls on the European Ombudsman to commit himself to directly forwarding, after obtaining the consent of the complainant concerned, each complaint that falls within the competence of a national or regional ombudsman;

29. Instructs its President to forward this resolution to the Council, the Commission and the European Ombudsman, and to the governments and parliaments of the Member States and their ombudsmen or similar competent bodies.

Transitional procedural guidelines on budgetary matters in view of the entry into force of the Lisbon Treaty

P7_TA(2009)0067

European Parliament resolution of 12 November 2009 on transitional procedural guidelines on budgetary matters in view of the entry into force of the Lisbon Treaty (2009/2168(INI))

(2010/C 271 E/05)

The European Parliament,

- having regard to the Treaty on the European Union and the Treaty Establishing the European Community,
 - having regard to the Treaty of Lisbon (TL),
 - having regard to the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management ⁽¹⁾ (IIA),
 - having regard to Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities ⁽²⁾ (Financial Regulation),
 - having regard to its resolution of 7 May 2009 on the financial aspects of the Treaty of Lisbon ⁽³⁾,
 - having regard to its resolution of 25 March 2009 on the Mid-Term Review of the 2007-2013 Financial Framework ⁽⁴⁾,
 - having regard to Rule 48 of its Rules of Procedure,
 - having regard to the report of the Committee on Budgets (A7-0045/2009),
- A. whereas the TL introduces important modifications in financial and budgetary matters, notably by rendering the multiannual financial framework (MFF) a legally binding act with which the annual budget has to comply, by suppressing the distinction between compulsory and non-compulsory expenditure and by substantially simplifying the budgetary procedure,

⁽¹⁾ OJ C 139, 14.6.2006, p. 1

⁽²⁾ OJ L 248, 16.9.2002, p. 1.

⁽³⁾ Texts adopted, P6_TA(2009)0374.

⁽⁴⁾ Texts adopted, P6_TA(2009)0174.