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8. Notes that the majority of the Ombudsman's investigations have been against the Commission, although the number of complaints must objectively be considered as small when set against the European Commission's function as the administrative body of the Union responsible for processing the full range of Community policies;
 9. Draws attention to the need, having regard specifically to the small number of complaints that the Ombudsman concludes with critical remarks, to ensure that the competent Community authorities act within a reasonable deadline to correct the maladministration for which they have been reprimanded;
 10. Calls on the Ombudsman to continue the welcome trend set in previous years by further reducing the response-time for processing complaints;
 11. Urges the Ombudsman to cooperate with Parliament in the matter of the re-drafting of the Inter-Institutional Agreement with the Commission and the Council on the processing of petitions and complaints;
 12. Would welcome agreement by the Ombudsman to submit a special report on the confidentiality of documents in the possession of Community authorities, having due regard to the procedure laid down in Annex VII to the European Parliament's Rules of Procedure 'for the consideration of confidential documents communicated to the European Parliament';
 13. Encourages the Ombudsman to work towards ensuring that those countries that seek accession to the European Union will establish their own offices of Ombudsman to penalise maladministration;
 14. Instructs its President to forward this resolution and the report of the Committee on Petitions to the European Ombudsman, all bodies and institutions of the European Union, the governments and parliaments of the Member States and national Ombudsmen or equivalent counterparts.
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10. Code of Good Administrative Behaviour

A5-0245/2001

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 (C5-0438/2000 – 2000/2212 (COS))

The European Parliament,

- having regard to the Special Report from the European Ombudsman (C5-0438/2000),
 - having regard to Article 195 of the EC Treaty on the duties of the European Ombudsman,
 - having regard to Rule 47(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions and the opinions of the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs and the Committee on Legal Affairs and the Internal Market (A5-0245/2001),
- A. whereas it is of the utmost importance that the same Code of Good Administrative Behaviour applies to all European institutions, bodies and agencies,
 - B. whereas provisions should be introduced to cover special situations and derogations (most notably for preserving security for actions of bodies or institutions where those actions depend on maintaining a higher level of security),
1. Calls on the European Commission to submit an appropriate proposal for a regulation containing a Code of Good Administrative Behaviour based on Article 308 of the Treaty establishing the European Community;

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2. Calls on the European Commission to take account of the following suggested modifications to the European Ombudsman's draft:
3. Instructs its President to forward this resolution to the Council, the Commission, and the European Ombudsman.

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MODIFICATIONS
BY PARLIAMENT

Modification 1

The Institution,

The Council of the European Union,

Modification 2

Citation 1

Having regard to the provisions on openness in the Amsterdam Treaty, and in particular **Article 1** of the Treaty on European Union and **Article 21** of the EC Treaty,

Having regard to **Article 41 of the Charter of Fundamental Rights of the EU and to** the provisions on openness in the Amsterdam Treaty, and in particular **Articles 1 and 6** of the Treaty on European Union, **and Articles 21 and 308** of the EC Treaty,

Modification 3

Citation 6

Having regard to **the existing Code of Conduct concerning public access to Commission documents, contained in Commission Decision (94/90/ECSC, EC, Euratom) of 8 February 1994** ⁽¹⁾.

Having regard to **Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission document** ⁽¹⁾.

⁽¹⁾ OJ L 46, 18.2.1994, p. 58.

⁽¹⁾ OJ L 145, 31.5.2001, p. 43.

Modification 4

Recital 1

Whereas the **Amsterdam Treaty has explicitly introduced the concept of openness into the Treaty on European Union, by stating that it marks a new stage in the process of creating an ever closer union in which decisions are taken as openly as possible and as closely as possible to the citizen,**

Whereas **since the entry into force of the Treaty of Maastricht every national of a Member State is also a citizen of the European Union; whereas Article 41 of the Charter of Fundamental Rights of the European Union recognises that citizenship includes the right to good administration.**

Modification 5

Recital 4

Whereas such a Code **can only be efficient if it is a publicly accessible document for the citizens, and thus published in the form of a decision like the above mentioned Decision on public access to Commission documents,**

Whereas such a Code **should be made as widely accessible as possible to citizens and easily available, including through the Internet.**

Modification 6

Recital 7

Considering it therefore desirable to establish a Code governing the principles of good administrative behaviour which the officials should respect in their relations with the public, and to make this Code publicly available,

Considering it therefore desirable to establish a Code governing the principles of good administrative behaviour which the **Institutions, their administrations and their** officials should respect in their relations with the public, and to make this Code publicly available,

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EUROPEAN
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BY PARLIAMENT

Modification 7

Article 1

In their relations with the public, **staff of the Institution** shall respect the principles which are laid down in this **Decision and which constitute the** Code of good administrative behaviour, hereafter referred to as 'the Code'.

In their relations with the public, the **Institutions and their officials** shall respect the principles which are laid down in this Code of good administrative behaviour, hereafter referred to as 'the Code'.

Modification 8

Article 2, paragraph 2

2. The **Institution** will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for it, such as persons employed under private law contracts, experts on secondment from national civil services and trainees.

2. The **Institutions and their administrations** will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for **them**, such as persons employed under private law contracts, experts on secondment from national civil services and trainees.

Modification 9

Article 2, paragraph 3a (new)

3a. For the purpose of this Code:

- (a) **the term 'Institution' shall mean a Community institution or body,**
- (b) **'Official' shall mean an official or other servant of the European Communities**

Modification 10

Article 3, paragraph 1

1. This Code contains the general principles of good administrative behaviour which apply to all relations of the Institution's **officials** with the public, unless they are governed by specific provisions.

1. This Code contains the general principles of good administrative behaviour which apply to all relations of the Institutions **and their administrations** with the public, unless they are governed by specific provisions.

Modification 11

Article 5, paragraph 3

3. The official shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, **racial or ethnic origin**, religion or belief, disability, age, or sexual orientation.

3. The official shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, **race, colour, ethnic or social origin, genetic features, language**, religion or belief, **political or any other opinion, membership of a national minority, property, birth**, disability, age, or sexual orientation.

Modification 12

Article 6, paragraph 2

2. When taking decisions, the official shall **strike a** fair balance between the interests of private persons and the general public interest.

2. When taking decisions, the official shall **respect the** fair balance between the interests of private persons and the general public interest.

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Modification 13

Article 8, paragraph 3

3. *The official shall abstain from being involved in the taking of a decision on a matter concerning his or her own interests, or those of his or her family, relatives, friends and acquaintances.*

3. *The conduct of the official shall never be guided by personal, family or national interest or by political pressure. The official shall not take part in a decision in which he or she, or any close member of his or her family, has a financial interest.*

Modification 14

Article 10, heading

Legitimate expectations **and** consistency

Legitimate expectations, consistency **and advice**

Modification 15

Article 10, paragraph 1

1. The official shall be consistent in his own administrative behaviour as well as with the administrative action of the Institution. The official shall follow the Institution's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

1. The official shall be consistent in his own administrative behaviour as well as with the administrative action of the Institution. The official shall follow the Institution's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case; **these grounds shall be recorded in writing.**

Modification 16

Article 10, paragraph 2a (new)

2a. The official shall, where necessary, advise the public on how a matter which comes within his or her remit is to be pursued and how to proceed in dealing with the matter.

Modification 17

Article 11

The official shall act fairly and reasonably.

The official shall act **impartially**, fairly and reasonably.

Modification 18

Article 12, paragraph 1

1. The official shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the official shall try **as much as possible to be helpful and to reply to the** questions which are asked.

1. The official shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the official shall try **to be as helpful as possible and shall reply as completely and accurately as possible to** questions which are asked.

Modification 19

Article 12, paragraph 3

3. If an error occurs which negatively affects the rights or interests of a member of the public, the official shall apologise for it.

3. If an error occurs which negatively affects the rights or interests of a member of the public, the official shall apologise for it **and endeavour to correct the negative effects resulting from his or her error in the most expedient way and inform the member of the public of any rights of appeal in accordance with Article 19 of the Code.**

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Modification 20

Article 13

The official shall ensure that every citizen of the Union or any member of the public who writes to the Institution in one of the Treaty languages receives an answer in the same language.

The official shall ensure that every citizen of the Union or any member of the public who writes to the Institution in one of the Treaty languages receives an answer in the same language. ***The same shall apply as far as possible to legal persons such as associations (NGOs) and companies.***

Modification 21

Article 15, paragraph 2a (new)

2a. The official shall alert the member of the public or organisation to any errors or omissions in documents and provide an opportunity to rectify them.

Modification 22

Article 17, paragraph 1

1. The official shall ensure that a decision on every request or complaint to the Institution is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public.

1. The official shall ensure that a decision on every request or complaint to the Institution is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public ***and for answers to administrative notes which the official has sent to his superiors requesting instructions regarding the decisions to be taken.***

Modification 23

Article 21, paragraph 1

1. The official who deals with personal data concerning a citizen shall respect ***the principles laid down in the Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movement of such data.***

1. The official who deals with personal data concerning a citizen shall respect ***the privacy and the integrity of the individual in accordance with the provisions of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data*** ⁽¹⁾.

⁽¹⁾ OJ L 8, 12.1.2001, p. 1.

Modification 24

Article 22

1. The official shall, when he has responsibility for the matter concerned, provide members of the public with the information that they request. The official shall take care that the information communicated is clear and understandable.

1. The official shall, when he has responsibility for the matter concerned, provide members of the public with the information that they request. ***When appropriate, the official shall give advice on how to initiate an administrative procedure within his field of competence.*** The official shall take care that the information communicated is clear and understandable.

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EUROPEAN
OMBUDSMAN'S DRAFTMODIFICATIONS
BY PARLIAMENTModification 25
Article 23, paragraph 1

1. Further to requests for access to documents of the Institution, the official shall give access to these documents in accordance with the Decision of the Institution on public access to documents.

1. The official shall deal with requests for access to documents in accordance with the rules adopted by the Institution and in accordance with the general principles and limits laid down in Regulation (EC) No 1049/2001.

Modification 26
Article 25

1. The Institution **will take the necessary measures in order to ensure that this Code enjoys the widest possible publicity amongst the citizens. It will in particular ensure the spreading of a leaflet called '...' which will contain a presentation of this Code and which will include its full text in an annex.**

1. The Institution **shall take effective measures to inform the public of the rights they enjoy under this Code. If possible, it shall make the text available in electronic form on its website.**

2. The institution will provide a copy of this Code to any citizen who requests it.

2. The Commission shall, on behalf of all institutions, publish and distribute the Code to citizens in the form of a brochure.

Modification 27
Article 26

Any failure of an official to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.

Any failure of an **Institution or** official to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.

Modification 28
Article 27

This Decision shall be reviewed after two years of operation. In 200..., the Secretary-General shall submit a report on the implementation of this Decision in the period ... – ..., in preparation of that review.

Each Institution shall review its implementation of the Code after two years of operation and shall inform the European Ombudsman of the results of its review.

11. Ombudsman: regulations and general conditions

A5-0240/2001

European Parliament resolution amending Article 3 of the regulations and general conditions governing the performance of the Ombudsman's duties (1999/2215(ACI))

The European Parliament,

- having regard to the Treaty establishing the European Community, and in particular Article 195(4) thereof,
- having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 20d(4) thereof,
- having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 107d(4) thereof,