

Thursday 24 November 2016

P8\_TA(2016)0452

**Activities of the European Ombudsman in 2015****European Parliament resolution of 24 November 2016 on the annual report on the activities of the European Ombudsman in 2015 (2016/2150(INI))**

(2018/C 224/17)

*The European Parliament,*

- having regard to the annual report on the activities of the European Ombudsman in 2015,
  - having regard to Article 15 of the Treaty on the Functioning of the European Union,
  - having regard to Article 228 of the Treaty on the Functioning of the European Union,
  - having regard to Article 258 of the Treaty on the Functioning of the European Union,
  - having regard to Article 11 of the Charter of Fundamental Rights of the European Union,
  - having regard to Article 41 of the Charter of Fundamental Rights of the European Union,
  - having regard to Article 42 of the Charter of Fundamental Rights of the European Union,
  - having regard to Article 43 of the Charter of Fundamental Rights of the European Union,
  - having regard to the United Nations Convention on the rights of persons with disabilities,
  - having regard to Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties <sup>(1)</sup>,
  - having regard to the European Code of Good Administrative Behaviour, as adopted by the European Parliament on 6 September 2001 <sup>(2)</sup>,
  - having regard to the Framework Agreement on Cooperation concluded between the European Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
  - having regard to the principles of transparency and integrity in lobbying published by the Organisation for Economic Cooperation and Development (OECD),
  - having regard to its previous resolutions on the European Ombudsman's activities,
  - having regard to Rule 220(2), second and third sentences, of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A8-0331/2016),
- A. whereas the annual report on the European Ombudsman's activities in 2015 was formally submitted to the President of Parliament on 3 May 2016, and the Ombudsman, Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 20 June 2016;
- B. whereas Article 15 TFEU states that in order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible;

---

<sup>(1)</sup> OJ L 113, 4.5.1994, p. 15.

<sup>(2)</sup> OJ C 72 E, 21.3.2002, p. 331.

**Thursday 24 November 2016**

- C. whereas Article 24 TFEU lays down the principle that every citizen of the Union may apply to the Ombudsman, established in accordance with Article 228 TFEU;
- D. whereas Article 228 TFEU empowers the European Ombudsman to receive complaints concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role;
- E. whereas Article 258 TFEU lays down the role of the Commission as guardian of the treaties; whereas failing or omitting to exercise that responsibility could be considered as maladministration;
- F. whereas, pursuant to Article 298 TFEU, the EU institutions, bodies, offices and agencies 'shall have the support of an open, efficient and independent European administration', and whereas the same article provides for the adoption, to that end, of specific secondary legislation in the form of regulations applicable to all areas of EU administration;
- G. whereas Article 41 of the Charter of Fundamental Rights states that 'every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union';
- H. whereas Article 43 of the Charter states that '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 Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role';
- I. whereas the office of the European Ombudsman, established by the Treaty of Maastricht, celebrated its 20th anniversary in 2015, having dealt with 48 840 complaints since 2005;
- J. whereas according to the Flash Eurobarometer on EU Citizenship Rights of October 2015, 83 % of European citizens are aware that an EU citizen has the right to make a complaint to the Commission, the European Parliament or the European Ombudsman;
- K. whereas maladministration is defined by the European Ombudsman as poor or failed administration, which occurs if an institution or public body fails to act in accordance with the law or with a rule or principle which is binding upon it, fails to respect the principles of good administration, or violates human rights;
- L. whereas the Code of Good Administrative Behaviour is aimed at preventing maladministration from occurring; whereas the usefulness of this tool is limited given its non-binding nature;
- M. whereas high transparency is crucial to gain legitimacy and trust that decisions are based on the overall public interest;
- N. whereas opacity when it comes to files which entail a big impact on the socio-economic model of the EU, and also often have major implications in the domain of public health and the environment, tends to generate mistrust among citizens and public opinion in general;
- O. whereas whistleblowers play a crucial role in unveiling cases of maladministration and even political corruption in some cases; whereas these cases severely undermine the quality of our democracy; whereas whistleblowers often face severe trouble in the aftermath and are too often exposed to negative personal consequences at many levels, not only professionally but even criminally; whereas in the absence of further safeguards these known past experiences could tend to dissuade individuals from following the ethical path of whistleblowing in the future;
- P. whereas the European Ombudsman's office achieved a compliance rate of 90 % with its decisions and/or recommendations in 2014, standing at 10 percentage points higher than the 2013 figure;

Thursday 24 November 2016

- Q. whereas, regarding the inquiries initiated by the Ombudsman in 2015, the following key topics may be identified: transparency within the EU institutions, ethical issues, public participation in EU decision-making, EU competition rules and fundamental rights;
- R. whereas the Committee on Petitions constitutes an active member of the European Network of Ombudsmen; whereas in this capacity the Committee received 42 complaints from the European Ombudsman marked for further treatment as petitions;
1. Approves the annual report for 2015 presented by the European Ombudsman;
  2. Congratulates Emily O' Reilly for her excellent work and for her untiring efforts to improve the quality of service offered to citizens by the European administrations; acknowledges the importance of transparency as a core element of gaining trust and of good administration, something that is also underlined by the high percentage of complaints concerning transparency (22,4 %), giving this subject matter the highest ranking of all; acknowledges the role of strategic enquiries in ensuring good administration and supports those conducted by the European Ombudsman's office in this domain so far;
  3. Welcomes the continued efforts of the European Ombudsman to increase transparency in the TTIP negotiations through proposals to the Commission; commends the resulting publication by the Commission of numerous TTIP documents, hence promoting transparency as one of the three pillars of the Commission's new trade strategy; re-emphasises the need for enhanced transparency in international agreements such as TTIP, CETA and others, as called for by numerous concerned citizens addressing the Committee on Petitions; calls for stronger and wider efforts in this regard, in order to safeguard the trust of European citizens;
  4. Calls on the European Ombudsman to inquire to what extent the establishment of secure reading rooms is in line with the right of access to documents and with the principles of good administration;
  5. Reminds that Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents builds on the principle of 'widest possible access'; underlines, therefore, that transparency and full access to documents held by the EU institutions must be the rule in order to ensure that citizens can fully exercise their democratic rights; stresses that, as has already decided by the European Court of Justice, exceptions to that rule have to be properly interpreted, taking into account the overriding public interest in disclosure and in the requirements of democracy, the closer involvement of citizens in the decision-making process, the legitimacy of governance, efficiency and accountability to citizens;
  6. Encourages the Commission and Member States to empower the European Ombudsman with the ability to issue a statement of non-compliance with Regulation (EC) No 1049/2001 regarding public access to European Parliament, Council and Commission documents by the various EU institutions, provided those documents do not fall within the scope of Article 4 and Article 9(1) of the Regulation; supports the notion that the Ombudsman should be empowered to take a decision on the release of the relevant documents, following an investigation into the non-compliance;
  7. Regrets that the revision of Regulation (EC) No 1049/2001 is stalled; believes that progress should be achieved without further delay, as the Regulation no longer reflects the current legal situation or institutional practices;
  8. Recognises the need for transparency in EU decision-making, and supports the investigation by the European Ombudsmen into informal negotiations between the three main EU institutions ('trilogues'), and the launching of a public consultation on the matter; supports the publishing of trilogue documents, with due regard to Articles 4 and 9 of Regulation (EC) No 1049/2001;
  9. Regrets that Parliament's Committee of Inquiry into Emission Measurements in the Automotive Sector (EMIS) was only supplied by the Commission with partial documentation, drawn up in such a way that certain information deemed not relevant by the Commission was lacking; calls on the Commission to ensure the highest accuracy in its work and full transparency as regards the documentation provided, in full compliance with the principle of sincere cooperation, so as to guarantee that EMIS can fully and effectively exercise its powers of investigation;

**Thursday 24 November 2016**

10. Supports the European Ombudsman's determination to make the workings of the European Central Bank more transparent and compliant with a high standard of governance, especially as a member of the Troika/Quadriga that supervises fiscal consolidation programmes in EU countries; welcomes the decision of the ECB to publish lists of meetings of its Executive Board members; supports the new guiding principles for speaking engagements and the establishment of a 'quiet period' regarding market-sensitive information prior to Governing Council meetings;
11. Notes the ECB's status as both a monetary authority and an advisory member of the Troika/Quadriga, and calls on the European Ombudsman to safeguard the interests of good administration of one of Europe's most important financial authorities;
12. Calls for greater transparency in Eurogroup meetings, beyond the steps already taken by its President following an intervention by the European Ombudsman;
13. Approves the Ombudsman's investigation into the make-up and transparency of the work of the Commission's expert groups; notes the Commission's efforts to open up these groups to the public, and stresses that further actions are needed to ensure full transparency; reiterates its call on the Council, including its preparatory bodies, to join the lobby register as soon as possible and to improve the transparency of their work;
14. Supports the Ombudsman's efforts to make lobbying more transparent; regrets the Commission's reluctance to publish detailed information on meetings with tobacco lobbyists; urges the Commission to make its workings fully transparent so that the public acquires more trust in its work;
15. Calls on the Commission to make all information on lobby influence available free of charge, fully comprehensible for and easily accessible to the public, through a single centralised online database;
16. Calls on the Commission to submit, within the year 2017, a proposal for a fully mandatory and legally binding lobby register aimed at closing all loopholes and achieving a fully mandatory register of all lobbyists;
17. Supports efforts to implement guidelines on lobbying transparency which would apply not only to the EU institutions but to national administrations as well;
18. Points out the concern of citizens in relation to the handling of infringement procedures by the Commission before the ECJ and the lack of transparency within the relevant steps of the process; highlights that the right to good administration, as enshrined in Article 41 of the Charter of Fundamental Rights, includes the obligation to produce sufficient reasoning in cases where the Commission decides not to launch an infringement procedure before the ECJ; welcomes the strategic enquiry by the European Ombudsman on the systemic issues encountered in EU Pilot;
19. Welcomes the opening of the Ombudsman's inquiry (Case OI/5/2016/AB) into the Commission's handling of infringement complaints under EU Pilot procedures in its role as a guardian of the Treaties; recalls the previous requests made by the Committee on Petitions on ensuring access to EU Pilot and infringement procedure documents, as petitions frequently lead to the initiation of such procedures;
20. Welcomes the continuation of the European Ombudsman's investigations into 'revolving door' cases in the Commission; acknowledges the fact that as a result of these investigations the Commission has provided greater information as regards the names of the senior officials who have left it to work in the private sector; encourages the more frequent publication of the names and other data of such persons; expresses the hope that other European institutions and agencies will follow suit; welcomes the willingness of the Commission to publish information regarding the post-term-of-office occupations of former Commissioners; expresses great concern at the fact that former Commission President Barroso was appointed as an adviser and non-executive chairman of Goldman Sachs International; calls on the Ombudsman to initiate a strategic inquiry into the Commission's handling of Barroso's revolving door case, including the formulation of recommendations on how to reform the Code of Conduct in line with the principles of good administration and the Treaty requirements found in Article 245 TFEU;

Thursday 24 November 2016

21. Recalls that conflict of interests has a broader scope than the 'revolving door' cases; stresses that effectively tackling all sources of conflict of interest is crucial in order to achieve good administration and ensure the credibility of political and technical decision-making; considers that particular attention needs to be paid at EU level, on the basis of high standards and concrete measures that leave no doubt regarding any conflict of interest, in appointing candidates for positions in the Union's institutions, agencies and bodies;
22. Welcomes the fact that in 2015 all EU institutions introduced internal rules for the protection of whistleblowers under Article 22(a) to (c) of the Staff Regulations, thus encouraging whistleblowing of a regulated kind; notes that the protection of whistleblowers against retaliation could be more effective; to this end, urges the adoption of common rules for the encouragement of whistleblowing and the introduction of minimum guarantees and safeguards for whistleblowers;
23. Calls for a directive on whistleblowing which sets out appropriate channels and procedures for denouncing all forms of wrongdoing, as well as minimum adequate guarantees and legal safeguards for whistleblowers both in the public and in the private sector;
24. Welcomes the introduction of a complaints mechanism for potential fundamental rights infringements in Frontex, following an ongoing investigation by the Ombudsman into practices employed by Frontex and Member States in joint forced returns of irregular migrants; commends the inclusion of such a mechanism in the new European Border and Coast Guard regulation;
25. Commends the European Ombudsman for investigating Member States' compliance with the Charter of Fundamental Rights when implementing actions financed from EU funds, such as projects that institutionalise people with disabilities rather than integrating them into society; urges the European Ombudsman to continue such investigations, in order to ensure the transparency and added value of projects;
26. Welcomes the cooperation between the Ombudsman and the European Parliament within the EU Framework for the UN Convention of Rights of Persons with disabilities, in particular in calling for the full implementation of the Convention at EU level and for sufficient resources to be allocated for this; reaffirms its full support for the implementation of the Convention and calls on the Commission and Member states to enact the full implementation of the Convention at EU level;
27. Supports the Ombudsman's efforts in dealing with discrimination cases, the rights of minority groups, and the rights of elderly people at the seminar of the European Network of Ombudsmen on 'Ombudsmen against Discrimination';
28. Supports the Ombudsman's efforts to ensure impartiality in Commission decision-making on competition matters;
29. Acknowledges that the right of citizens to have a say in EU policymaking is now more important than ever; welcomes the guidelines proposed by the Ombudsman for improving the functioning of the European Citizens' Initiative (ECI), especially where solid reasoning by the Commission in ECI rejections is concerned; recognises, however, that there are significant deficits which need to be tackled and solved in order to make the ECI more effective; asserts that the greater inclusion of citizens in the determination of EU policies will increase the credibility of the European institutions;
30. Notes positively the Ombudsman's continuous dialogue and close relations with a broad range of EU institutions, including the European Parliament, as well as other bodies, with a view to ensuring administrative cooperation and cohesion; also commends the Ombudsman's efforts to ensure continuous and open communication with the Committee on Petitions;
31. Acknowledges the need for EU agencies to abide by the same high standards of transparency, accountability, and ethics as all other institutions; notes with appreciation the important work performed by the European Ombudsman in several agencies across the EU; supports the proposal made to the European Chemicals Agency (ECHA) that registrants have to show that they tried their utmost to avoid animal testing and to provide information on how to avoid animal testing;

**Thursday 24 November 2016**

32. Supports the Ombudsman's recommendations to the effect that the European Food Safety Agency should revise its rules and procedures on conflict of interest in order to ensure proper public consultation and participation;
  33. Reminds that the Ombudsman also has the capacity, and therefore the duty, to scrutinise the work of Parliament in pursuit of the goal of ensuring sound administration for EU citizens;
  34. Calls for an effective upgrading of the Code of Good Administrative Behaviour by adopting a binding regulation on the matter during this legislative term;
  35. Calls on the European Ombudsman to add to future annual reports a categorisation of complaints outside the mandate of the Ombudsman's office, since this would allow Members of the European Parliament an overview of problems affecting EU citizens;
  36. Instructs its President to forward this resolution and the report of the Committee on Petitions to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States, and the Member States' ombudsmen or similar competent bodies.
-