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P9_TA(2020)0016

Activities of the European Ombudsman in 2018**European Parliament resolution of 16 January 2020 on the activities of the European Ombudsman — annual report 2018 (2019/2134(INI))**

(2021/C 270/12)

The European Parliament,

- having regard to the annual report on the European Ombudsman's activities in 2018,
 - having regard to Articles 15, 24, third paragraph, and 228 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to Articles 11, 41, 42 and 43 of the Charter of Fundamental Rights of the European Union ('the Charter'),
 - having regard to the UN Convention on the Rights of Persons with Disabilities (UNCPRD),
 - 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 ⁽¹⁾,
 - having regard to the European Code of Good Administrative Behaviour, as adopted by Parliament on 6 September 2001,
 - having regard to the Framework Agreement on Cooperation concluded between Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
 - having regard to its resolution of 17 January 2019 on Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU ⁽²⁾,
 - having regard to its resolution of 13 February 2019 on the outcome of the Committee on Petitions' deliberations during 2018 ⁽³⁾,
 - having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rules 54 and 232(1) of its Rules of Procedure,
 - having regard to the letter from the Committee on Constitutional Affairs,
 - having regard to the report of the Committee on Petitions (A9-0032/2019),
- A. whereas the annual report on the activities of the European Ombudsman in 2018 was formally submitted to the President of Parliament on 2 October 2019 and the Ombudsman, Emily O'Reilly, presented it to the Committee on Petitions in Brussels on 4 September 2019;
- B. whereas Articles 24 and 228 of the TFEU empower 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;
- C. whereas Article 10(3) of the Treaty on European Union establishes that 'every citizen shall have the right to participate in the democratic life of the Union' and that 'decisions shall be taken as openly and as closely as possible to the citizen';

⁽¹⁾ OJ L 113, 4.5.1994, p. 15.

⁽²⁾ Texts adopted, P8_TA(2019)0045.

⁽³⁾ Texts adopted, P8_TA(2019)0114.

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- D. whereas Article 15 of the 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’ and that ‘any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union’s institutions, bodies, offices and agencies’;
- E. whereas Article 41(1) of the Charter states that ‘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’;
- F. 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 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’;
- G. whereas in 2018 the Ombudsman opened 490 inquiries, of which 482 were complaint-based and 8 own-initiative, while closing 545 inquiries (534 complaint-based and 11 own-initiative); whereas the greater part of the inquiries concerned the Commission (285 inquiries or 58,2 %), the next largest number concerned the EU agencies (43 inquiries or 8,8 %), and the rest were distributed as follows: Parliament (30 inquiries or 6,1 %), the European Personnel Selection Office (EPSO) (23 inquiries or 4,7 %), the European External Action Service (EEAS) (23 inquiries or 4,7 %), the European Investment Bank (16 inquiries or 3,3 %), the European Anti-Fraud Office (OLAF) (14 inquiries or 2,8 %), and other institutions (56 inquiries or 11,4 %);
- H. whereas the top three concerns in the inquiries closed by the Ombudsman in 2018 were: transparency, accountability and public access to information and documents (24,6 %), culture of service (19,8 %), and proper use of discretion (16,1 %); whereas other concerns included respect of procedural rights such as the right to be heard, respect of fundamental rights, recruitment, ethical issues, public participation in EU decision-making, including in infringement procedures, sound financial management of EU tenders, grants and contracts, recruitment, and good management of EU personnel issues;
- I. whereas the 76 % compliance rate of the Ombudsman’s recommendations for good administration by the European Commission in 2018 represents a continuous decrease from 82 % in 2016 and 77 % in 2017 levels, respectively;
- J. whereas 17 996 citizens called on the Ombudsman’s services for help in 2018; whereas 14 596 were given advice through the interactive guide on her website; whereas 1 220 requests were forwarded elsewhere for information; whereas the Ombudsman took action on 2 180 complaints received;
- K. whereas in its strategic work in 2018, the Ombudsman’s office opened five new strategic inquiries, respectively on treatment of persons with disabilities under the Joint Sickness Insurance Scheme, on accessibility of Commission websites for persons with disabilities, on pre-submission activities of the European Medicines Agency (EMA), on the Commission’s management of ‘revolving door’ situations concerning EU staff, and on the accountability of the Council’s legislative work; whereas in 2018 the Ombudsman opened ten strategic initiatives on, among other subjects, the use of languages in the EU civil service, anti-harassment policies in the EU civil service, and the protection of children in migration;
- L. whereas the Ombudsman has a crucial role to play in making the EU legislative process more open and accountable to citizens, so as to enable them to exercise their right to participate in the democratic life of the Union and thus increase citizen engagement and trust;
- M. whereas the Ombudsman has a crucial role to play in ensuring the accountability of the EU institutions and the maximum transparency and impartiality of the EU administration and decision-making processes in order to protect citizens’ rights, thereby increasing their trust, engagement and participation in the democratic life of the Union;
- N. whereas the main priority of the European Ombudsman is to ensure that citizens’ rights are fully respected;

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- O. whereas in 2018 the Ombudsman launched a new website, which includes a revised and user-friendly interface for potential complainants; whereas the Ombudsman's 'fast-track' procedure for dealing with complaints about public access to documents reflects the Ombudsman's commitment to provide assistance and to take decisions within 40 days for those seeking assistance, in all 24 official languages of the EU; whereas this new initiative is part of a strategy to improve the effectiveness of her office;
- P. whereas the Ombudsman's strategic inquiry OI/2/2017/TE found that the Council lacks transparency regarding public access to its legislative documents and regarding its current practices in its decision-making process — and more specifically during the preparatory stage at the Committee of Permanent Representatives (COREPER) and working-group level; whereas following the Council's reluctance to implement her recommendations, on 16 May 2018, the Ombudsman submitted Special Report OI/2/2017/TE on the transparency of the Council legislative process to Parliament; whereas on 17 January 2019, Parliament adopted its report on the Ombudsman's strategic inquiry, which fully endorses the Ombudsman's recommendations; whereas the Finnish Presidency has expressed its commitment to enhancing the openness and legislative transparency of the Council;
- Q. whereas on 12 February 2019, Parliament approved a draft regulation of the European Parliament laying down the regulations and general conditions governing the performance of the Ombudsman's duties (Statute of the European Ombudsman) and repealing Decision 94/262/ECSC, EC, Euratom⁽⁴⁾, for which it has the primary legislative responsibility; whereas Council's approval of this this new regulation is pending;
- R. whereas greater openness and transparency on positions taken by Member States' governments in the Council will improve trust in the EU and reduce Euroscepticism and populism;
- S. whereas greater transparency in the decision making process in trilogues will enhance citizens' trust in the EU institutions;
- T. whereas in 2018, the Ombudsman launched an anti-harassment strategic initiative checking the anti-harassment policies the EU administration has in place; whereas the Ombudsman decided to write in 2018 to 26 EU institutions and agencies asking for details of the policies and how they are implemented;
- U. whereas in 2018, the Ombudsman launched an inquiry regarding gender discrimination and equal opportunity concerns at the European Investment Bank (EIB); whereas the EIB followed Ombudsman recommendations and suggestions regarding equal opportunities and gender parity;
- V. whereas the Ombudsman is part of the EU framework under the UNCPRD tasked with protecting, promoting and monitoring the implementation of that convention at the level of the EU institutions;
- W. whereas a conference bringing together the European Network of Ombudsmen and the European Parliament's Committee on Petitions was held in March 2018 and one of the main points of the discussion was on how ombudsmen could strengthen their cooperation;
1. Welcomes the annual report for 2018 presented by the European Ombudsman;
 2. Congratulates Emily O'Reilly for her excellent work and her constructive efforts to improve the quality of the EU's administration and the accessibility and quality of the services it offers to citizens;
 3. Emphasises the importance of transparency and public access to the documents held by the Council; stresses that a high level of transparency of the legislative process is essential in order to enable citizens, media and stakeholders to hold their elected officials and governments to account; acknowledges the valuable role the Ombudsman plays in liaising and mediating between the EU institutions and citizens; believes that the Council must revise its confidentiality policy; highlights the Ombudsman's work in making the EU legislative process more accountable to the public;

⁽⁴⁾ Texts adopted, P8_TA(2019)0080.

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4. Stresses the need for more active citizen participation in decision-making and its importance, in addition to the need for greater transparency in the way in which the administration operates, as measures to strengthen the democratic legitimacy of the Union's institutions that are aimed at restoring confidence;
5. Urges the Ombudsman to ensure greater transparency in the decision-making process in trilogues;
6. Stresses that restoring citizens' confidence in the Union's institutions is a primary concern of the European Parliament and is of the utmost socio-political and ethical importance;
7. Stresses the need to improve and enhance social dialogue, in addition to the dialogue held between the bodies, institutions and citizens of the Union;
8. Fully endorses the European Ombudsman's recommendations to the Council and urges the Council to take all measures necessary to implement these recommendations as swiftly as possible;
9. Encourages the Ombudsman to offer further guidance to the EU institutions on how to better communicate with citizens in all official EU languages; urges the Ombudsman to provide guidance to the institutions on how to develop their language policy in such a way that it could enable the production of relevant content and information in the most languages possible;
10. Welcomes the Ombudsman's strategy, which aims to increase the impact and visibility of her mandate among EU citizens;
11. Welcomes the redesign of the European Ombudsman's website, which makes it a more functional and accessible instrument for citizens;
12. Requests that the Council, as co-legislator, aligns its working methods with the standards of a parliamentary democracy as required under the Treaties, rather than act like a diplomatic forum, which is not its intended function; recalls that following her strategic inquiry OI/2/2017/TE, the Ombudsman concluded that the Council's practices with respect to transparency constitute maladministration; urges the Council to immediately implement the Ombudsman's recommendations drawn from her strategic inquiry, including those provided by Parliament in its own report concerning the Special Report; encourages the Ombudsman to continue to follow up on the progress related to her strategic inquiry;
13. Reiterates its call for an update on EU legislation on access to documents and requests that 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 documents ⁽⁵⁾ be revised so as to facilitate the Ombudsman's work in scrutinising the granting of access to documents by Parliament, Council and the Commission; considers it regrettable that the Council has blocked the revision of the Regulation (EC) No 1049/2001 and urges the Council to reopen its discussions based on the position adopted by Parliament in second reading as laid down in resolution of 12 June 2013 on the deadlock on the revision of Regulation (EC) No 1049/2001 ⁽⁶⁾;
14. Reiterates its call for a revision of Regulation (EC) No 1049/2001 as it is seriously outdated and no longer reflects the current legal situation and institutional practices implemented by EU institutions, offices, bodies and agencies;
15. Welcomes the formal launch of the fast-track procedure for inquiries on access to documents and acknowledges the positive result it has for complainants;

⁽⁵⁾ OJ L 145, 31.5.2001, p. 43.

⁽⁶⁾ Texts adopted, P7_TA(2013)0271.

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16. Strongly underlines the importance for the Ombudsman to continue to closely monitor and conduct strategic inquiries into the Commission's transparency; expresses that it is aware of the fact that the phenomenon of revolving doors still exists, in particular among top-ranked officials of the institutions; urges the Ombudsman to continue to monitor the implementation of the Commission's revised rules on revolving doors that came into place in September 2018 as a result of her own-initiative inquiry;

17. Stresses that the issue of conflicts of interest is broader than the cases of revolving doors, and insists that further rules and stricter criteria need to be developed in order to firmly guarantee that decisions and legislation are made with the interests of citizens in mind;

18. Recalls that the principles of public availability, openness, and transparency are inherent to the EU legislative process in order to allow citizens to find out about the considerations that underpin legislative actions, therefore ensuring effective exercise of their democratic rights⁽⁷⁾; recognises the need for transparency in the EU decision-making process; supports the development between the services of the three institutions in the establishment of the Joint Legislative Portal, which is aimed at providing a user-friendly channel that enables non-specialists to access information about ongoing legislative procedures;

19. Supports the publication of final trilogue documents; underlines that the Court of Justice ruling in the *De Capitani* case (T-540/15) in March 2018 states that the institutions' views reflected in the 'four-column' documents did not fall under a general presumption of non-disclosure; notes that the sensitive nature of the subject matter reflected in the trilogue documents was not in itself considered to constitute sufficient grounds for refusing access to the public; considers that, in order to achieve transparency in the trilogues, all three institutions should contribute; recognises that the public's right of access to documents of the Union's institutions is the protected and inalienable right of every EU citizen directly emanating from the democratic principle and fundamental right of freedom of expression, so that a corresponding obligation of the Union of compliance and accountability is established; stresses the need to further promote the relevant institutions of transparency, such as the Office of Ombudsman, so that the Union meets its obligation referred to above;

20. Reiterates that the integrity of the European Central Bank (ECB) and its independence from private financial interests must be ensured; stresses that the members of its Executive Board must abstain from being simultaneously members of fora or other organisations, which include executives of banks supervised by the ECB, and must not participate in fora that are not open to the public; welcomes the opinion of the Ombudsman of 5 July 2018;

21. Regrets that the recommended adoption and application of minimum rules for accountability by the ECB has not yet taken place; considers that failing to ensure the transparency of the ECB's activities could lead to its independence from private financial interests being questioned;

22. Supports the Ombudsman's recommendations of 15 January 2018 on the involvement of the President of the European Central Bank and members of its decision-making bodies in the 'Group of Thirty', and urges the ECB to amend the relevant rules in order to ensure that the highest ethical and accountability standards are concretely implemented;

23. Calls on the Commission, in the phase of informal dialogue between itself and the Member States, to ensure a high level of transparency and access to documents and information with regard to the EU Pilot and infringement procedures, particularly on those related to petitions received, and full access by appropriate means to EU Pilot and infringement procedures that have already ended; calls on the Commission to take a different approach with regard to investigations of breaches of EU law and to launch infringement procedures without relying solely on the EU Pilot mechanism;

24. Stresses the importance of the measures taken to enhance the transparency of decisions taken in infringement procedures; recalls that in 2014 the Commission set up a centralised platform with comprehensive information on infringements, on the Europa website; highlights that the Commission provides the European Parliament and the public with information on EU Pilot and infringements files in its annual reports on monitoring the application of EU law;

(7) Joined Cases C-39/05 and C-52/05 P, *Kingdom of Sweden and Maurizio Turco v Council of the European Union*, European Court Reports 2008 I-04723.

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25. Fully supports the Ombudsman's commitment to improving the transparency of EU lobbying; supports the Commission's commitment to implementing the revised horizontal rules on expert groups, including those regarding transparency and conflict of interests; stresses the importance of registering individuals and organisations representing private interests in the Transparency Register, so that appointments can be made in accordance with the horizontal rules;

26. Highlights the need for a tripartite agreement between the European Parliament, the Council and Commission, which would constitute a step towards strengthening the existing rules on lobbying and closing loopholes; considers, however, that the institutions should not stop there, but should continue towards binding legislative measures for all EU institutions and agencies;

27. Stresses the importance of making available all information on the influence of lobbyists free of charge, fully comprehensible and easily accessible to the public, improving the accuracy of data in the EU Transparency Register; underlines that full transparency of the funding of all interest representatives must be ensured and calls for any organisation that breaks the revolving doors rules to be suspended;

28. Highlights the need for the adoption of a legal act in order to make the Transparency Register fully mandatory and legally-binding for all EU institutions and agencies and third parties, thus ensuring full transparency of lobbying; encourages the EU institutions to consider which practical arrangements could lead to a prompt and efficient agreement;

29. Regrets that gender discrimination and gender representation remains an issue within EU institutions; notes with concern the findings in case 366/2017/AMF and strongly urges the EIB to fully comply with the recommendations of the Ombudsman in achieving a balanced representation of all genders in management positions;

30. Welcomes the Ombudsman's inquiry in 2018 into the appointment procedure of the former Commission Secretary General and acknowledges her finding of four instances of maladministration; expresses its regret that, despite Parliament's support for the Ombudsman's recommendations, the previous Commission failed to implement them; notes particular concern over the fact that it did not put in place a specific appointment procedure, and requests that the new Commission set one up, thereby ensuring the highest standards in terms of transparency, ethics and rule of law;

31. Notes with concern the declining compliance rate by the Commission to the Ombudsman's proposed recommendations, suggestions and solutions; calls on the Commission to demonstrate further commitment when it comes to solving all instances of maladministration found by the Ombudsman in its activities;

32. Urges the Ombudsman to monitor the implementation of Parliament's new Rules of Procedure for the hearings of the Commissioners-designate, in particular those set out in Annex VII Article 2 regarding the examination of financial interests, in the spirit of transparency and objectivity;

33. Acknowledges the proposal adopted by the Commission on 31 January 2018 for a new Code of Conduct for the Members of the European Commission; believes that further reinforcements of the provisions of the Code must be made;

34. Reiterates and strongly believes that strict ethical rules and standards need to be applied throughout the EU institutions with a view to securing respect for the duty of integrity;

35. Strongly believes transparency is an essential component of the rule of law, and that it must be observed throughout the legislative process, since it influences the effective materialisation of the right to vote and the right to stand in elections, in addition to other rights (i.e. the freedom of expression, the freedom of speech and the freedom to receive information); considers that forging an active EU citizenship would require public scrutiny, review and evaluation of the process and with the potential for the outcome to be challenged; underlines the fact that this would help citizens become more and more familiar with the basic concepts of the legislative process and foster participation in the democratic life of the Union;

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36. Welcomes the Ombudsman's continuous efforts to influence change in the EU institutions by participating in public consultations that relate to areas of her work; welcomes her suggestions to improve the transparency of the EU risk assessment model in the food chain, which include recommendations that the European Food Safety Agency publish agendas and minutes of meetings related to risk assessment;

37. Encourages the Ombudsman to continue her own initiative inquiry into the transparency of EMA and pharmaceutical companies' pre-submission applications for market authorisation interaction, and the public consultation that ran until January 2019;

38. Welcomes her inquiry into the European Aviation Safety Agency (EASA) safety reports, which resulted in the agency changing its practice so that those who report safety concerns receive feedback;

39. Urges the Ombudsman to continue monitoring the compliance of the Joint Sickness Insurance Scheme (JSIS) with the UNCPRD; urges the Commission to update the text of the General Implementing Provisions (GIPs), which govern the operation of the JSIS as regards medical expenses and the expenses related to reasonable accommodation at workplace of persons with disabilities or serious illness; calls on the Ombudsman to ensure the full implementation of the UNCPRD by the entire administration of the European Union;

40. Welcomes the Ombudsman's practical recommendations with regard to the accessibility of the selection procedures of the European Personnel Selection Office (EPSO) for visually impaired candidates; calls on the Ombudsman to monitor EPSO's full compliance with the accessibility requirements for the selection procedures online; calls on the Ombudsman to follow up its proposals for assistive technologies during the computer-based tests, which take place around the world;

41. Supports the Ombudsman in raising awareness among the EU institutions regarding the introduction of stronger anti-harassment policies;

42. Supports the Ombudsman's initiative to follow up the #MeToo movement and calls to further monitor what anti-harassment policies the EU administration has in place;

43. Supports the Ombudsman's efforts to facilitate citizen participations in EU policy-making; requests that the Ombudsman continue to follow the use of the European Citizens Initiative (ECI) tool, including the monitoring of the implementation of the revised ECI regulation;

44. Points out that the role of the European Ombudsman has evolved over time since its creation, from preventing maladministration to promoting good administration; considers that the logic evolution of this trend is to continue the efforts of actively promoting better administration and the best administrative practices in a timely fashion;

45. Welcomes the Ombudsman's initiative for an Award for Good Administration, which recognises the efforts of the EU civil service to find innovative ways of implementing citizen-friendly policies;

46. Reiterates its long-standing call to upgrade the current Code of Good Administrative Behaviour into a properly binding regulation for all EU institutions and agencies;

47. Recalls the Ombudsman's commitment to a very high level of transparency from the EU throughout the negotiations on the UK's withdrawal agreement from the European Union;

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48. Encourages the Ombudsman to continue to cooperate with national ombudsmen through the European Network of Ombudsmen; stresses the need to further develop such instances of cooperation between the various national ombudsmen;
 49. Recalls that the new draft Statute of the European Ombudsman that was recently adopted by Parliament contains a cooling-off provision of a 3-year period before a Member of the European Parliament is eligible for the Ombudsman's office;
 50. Reiterates that it is crucially important to preserve the independence and the integrity of the Ombudsman, and ensure that the office is held by persons who are free from obvious party-political affiliations, conflicts of interest and who have a strong sense of ethics;
 51. Expresses its appreciation of the excellent and fruitful instance of cooperation carried out by the Ombudsman and her team with the Committee on Petitions;
 52. Acknowledges the excellent instances of cooperation conducted by the Ombudsman during her mandate and invites the upcoming Ombudsman to such cooperation and structural dialogue with the Committee on Petitions to further improve the quality of the EU's administration and the accessibility and quality of the services it offers to our citizens;
 53. 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 authorities.
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