



**2018/2080(INL)**

20.9.2018

# **DRAFT OPINION**

of the Committee on Petitions

for the Committee on Constitutional Affairs

on the proposal for amending Parliament's Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (2018/2080(INL))

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## SHORT JUSTIFICATION

The European Parliament has repeatedly called for the Ombudsman's Statute to be updated before the end of the legislative term, with a view to ensuring that the new mandate, due to commence immediately following the elections to the European Parliament in 2019, would encompass any new or modified duties already from the start.

It has been 10 years since the last revision of the Statute (in 2008) and in the meantime the Lisbon Treaty has entered into force. Over the last 10 years, the Ombudsman's role has been consolidated and enhanced, thanks especially to the tireless work done by its respective office holders. We are currently faced with new realities and challenges, and new expectations from citizens and from the Parliament in a number of key areas which require improvement.

When it comes to the implementation of the fundamental right of access to documents, Parliament has noted that, while citizens have the right to appeal denials or partial denials before the European Court of Justice, this procedure is costly and time consuming, and requires formal legal representation. The European Parliament has therefore recommended in various resolutions that the Ombudsman should be in a position to take binding decisions on access to documents cases in order to give the fullest possible effect to the right of public access to European Union documents.

Clarifications are also required in order to highlight that the Ombudsman's office is bound by Regulation (EC) 1049/2001 of the European Parliament and of the Council on public access to EU institution documents, and hence additional presumptions of secrecy for certain categories of information are removed.

Amendments are proposed to ensure that information which is classed as sensitive in accordance with Article 9 of Regulation (EC) 1049/2001 is to be shared with the Ombudsman in line with the applicable security rules. In order to promote the efficiency of Ombudsman inquiries, when testimonies are provided by EU staff this should be done in a climate that is free from obligations of professional secrecy.

Clarifications are proposed to ensure that the failure or excessive delay by the Union institutions to comply with rulings of the CJEU can also be considered a source of maladministration<sup>1</sup>. The division of competences and compatibility of procedures between the Ombudsman and the judiciary is also clarified, and changes to the Statutes are made to ensure that the Ombudsman can have the possibility to intervene in legal cases before the European Court of Justice in the same way as other EU institutions.

Changes are also made to ensure that the Ombudsman has the right to appear before the European Parliament where appropriate, including alongside other institutions that might be the subject of specific or strategic inquiries.

Finally, in sensitive areas such as whistleblower protection or harassment in the workplace, which can become a source of maladministration if not handled adequately by EU institutions,

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<sup>1</sup> Definition of maladministration by Jacob Söderman, first European Ombudsman: *'Maladministration occurs when a public body fails to act in accordance with a rule or principle which is binding upon it'*.

agencies and bodies, proposals are made to ensure that the Ombudsman has an advisory role in these cases, with the corresponding increase in resources that might be required as a result.

In the case of workplace harassment, changes are proposed to ensure that the Ombudsman is able to undertake inquiries to look into how anti-harassment policies are applied in practice and to make recommendations as appropriate. Advice could also be provided to EU staff who believe they are experiencing harassment. A fast-track procedure for sexual harassment cases specifically could also be envisaged - again, this service would be contingent on having the appropriate resources.

When it comes to the protection of whistleblowers, the Ombudsman has already conducted inquiries into the whistleblower protection policies of nine key EU institutions. It is important to ensure that she is able to continue doing this but also able to provide advice to potential whistleblowers on how and to what extent they may be protected for public interest disclosures. Should an EU regulation on whistleblowing come into force, it would be expected from the Ombudsman to also be able to provide an advice service to EU citizens who are unsure whether the EU whistleblower protection regulation would apply to them or not.

A specific mention is made to the need to proactively monitor possible conflicts of interest. Impartiality needs to be ensured, and this is a task that falls within the Ombudsman's remit.

## AMENDMENTS

The Committee on Petitions calls on the Committee on Constitutional Affairs, as the committee responsible, to take into account the following amendments:

### Amendment 1

#### Ombudsman Statute TITLE

##### *Current text*

**Decision** of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties<sup>(1)</sup>.

##### *Amendment*

**Regulation** of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties<sup>(1)</sup>.

Or. en

##### *Justification*

*This is a new binding legislative act in form of a regulation, according to the Lisbon Treaty provisions.*

## Amendment 2

### Ombudsman Statute Recital 1

#### *Current text*

Having regard to the Treaties establishing the European **Communities**, and in particular Article **195(4)** of the Treaty establishing the European **Community** and Article **107d(4)** of the Treaty establishing the European Atomic Energy Community,

#### *Amendment*

Having regard to the Treaties establishing the European **Union**, and in particular Article **228(4)** of the Treaty establishing the European **Union** and Article **106a(1)** of the Treaty establishing the European Atomic Energy Community,

Or. en

#### *Justification*

*Change “Community” to “Union” throughout the text, adapting it to the current Treaties nomenclature.*

## Amendment 3

### Ombudsman Statute Recital 6

#### *Current text*

Whereas the Ombudsman, who may also act on **his** own initiative, must have access to all the elements required for the performance of **his** duties; whereas to that end **Community** institutions and bodies are obliged to supply the Ombudsman, **at his** request, with any **information which he requests** of them and without prejudice to the Ombudsman's **obligation not to divulge such information**; whereas access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001(2), should be subject to compliance with the rules on security of the **Community** institution or body concerned; whereas the institutions or bodies supplying classified information or

#### *Amendment*

Whereas the Ombudsman, who may also act on **their** own initiative, must have access to all the elements required for the performance of **their** duties; whereas to that end **Union** institutions and bodies are obliged to supply the Ombudsman, **upon** request, with any information **requested** of them and without prejudice to the Ombudsman's **obligations under regulation 1049/2001**; whereas access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001(2), should be subject to compliance with the rules on security of the **Union** institution or body concerned; whereas the institutions or bodies supplying classified information or

documents as mentioned in the first subparagraph of Article 3(2) should inform the Ombudsman of such classification; whereas for the implementation of the rules provided for in the first subparagraph of Article 3(2), the Ombudsman should have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents **and other information covered by the obligation of professional secrecy**; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

documents as mentioned in the first subparagraph of Article 3(2) should inform the Ombudsman of such classification; whereas for the implementation of the rules provided for in the first subparagraph of Article 3(2), the Ombudsman should have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

Or. en

#### *Justification*

*Linguistic changes are made to provide a more gender-neutral text, which should apply throughout the whole text. Secondly, amendments are necessary to clarify that the Ombudsman is bound by Regulation 1049/2001, and to avoid professional secrecy being treated as a specific category of information that is presumed to be withheld.*

#### **Amendment 4**

##### **Ombudsman Statute Recital 13**

#### *Current text*

Whereas provisions should be laid down regarding the officials and servants of the Ombudsman's secretariat which will assist him and the budget thereof; whereas the seat of the Ombudsman should **be that of the European Parliament**;

#### *Amendment*

Whereas provisions should be laid down regarding the officials and servants of the Ombudsman's secretariat which will assist them and the budget thereof; whereas the seat of the Ombudsman should be **in Brussels**;

Or. en

#### *Justification*

*Bearing in mind that already half of the staff of the Ombudsman's office work in Brussels it seems a move in the right direction. Moreover, removing the reference to the seat of a specific institution will also be important to symbolically reinforce the logic of Ombudsman's independence from any political or administrative influence. The appropriate transitional*

*period should be envisaged so that staff working outside of Brussels have the chance to adapt.*

## **Amendment 5**

### **Ombudsman Statute**

#### **Recital 14**

##### *Current text*

Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision; ***whereas furthermore certain transitional provisions should be laid down for the first Ombudsman to be appointed after the entry into force of the EU Treaty;***

##### *Amendment*

Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision;

Or. en

##### *Justification*

*There is no longer a need for this transitional provision, since the Lisbon Treaty is already into force.*

## **Amendment 6**

### **Ombudsman Statute**

#### **Article 1 – point 2**

##### *Current text*

The Ombudsman shall perform his duties in accordance with the powers conferred on the Community institutions and bodies by the Treaties.

##### *Amendment*

The Ombudsman shall perform their duties in accordance with the powers conferred on the Union institutions and bodies by the Treaties, ***particularly articles 20 and 228 of the Treaty of Functioning of the EU and with due regard to Article 41 of the EU Charter of Fundamental Rights on the right to good administration.***

Or. en

## *Justification*

*Precision and concrete references to the provisions of primary law from which this Statute stems.*

### **Amendment 7**

#### **Ombudsman Statute**

#### **Article 1 – point 3**

*Current text*

*Amendment*

**3. The Ombudsman may not intervene in cases before courts or question the soundness of a court's ruling.** **deleted**

Or. en

## *Justification*

*To make it eventually possible for the Ombudsman to intervene before the Court of Justice of the EU in line with the Treaties, while preserving the Ombudsman's independent role, since the other EU institutions and bodies have this possibility, in accordance with article 40 of the Statute of the Court of Justice:*

*"Member States and institutions of the Union may intervene in cases before the Court of Justice. The same right shall be open to the bodies, offices and agencies of the Union and to any other person which can establish an interest in the result of a case submitted to the Court. Natural or legal persons shall not intervene in cases between Member States, between institutions of the Union or between Member States and institutions of the Union".*

### **Amendment 8**

#### **Ombudsman Statute**

#### **Article 2 – point 4**

*Current text*

*Amendment*

4. A complaint shall be made within **two** years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the

4. A complaint shall be made within **three** years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the

institutions and bodies concerned.

institutions and bodies concerned.

Or. en

*Justification*

*To allow complainants to have more time to make a complaint, considering the current cumulative time span in the interaction with institutions*

**Amendment 9**

**Ombudsman Statute**

**Article 2 – point 7**

*Current text*

7. ***When the Ombudsman, because of legal proceedings in progress or concluded concerning the facts which have been put forward, has to declare a complaint inadmissible or terminate consideration of it, the outcome of any enquiries he has carried out up to that point shall be filed definitively.***

*Amendment*

7. ***The Ombudsman is not entitled to take a decision while legal proceedings are in progress nor concerning the facts which have been put forward in a concluded legal proceeding; however, the Ombudsman has the right to make recommendations where it finds that an institution is not properly applying a court ruling.***

Or. en

*Justification*

*The Ombudsman ought to have the right to make recommendations where an institution is not properly applying a court ruling. The Statute is amended to clarify the limits of the Ombudsman's participation in legal proceedings and to open the possibility that the non-application of a court ruling be considered maladministration.*

**Amendment 10**

**Ombudsman Statute**

**Article 2 – point 8**

*Current text*

8. No complaint may be made to the Ombudsman that concerns work

*Amendment*

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relationships between the **Community** institutions and bodies and their officials and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90(1) and (2) of the Staff Regulations, have been exhausted by the person concerned and the time limits for replies by the authority thus petitioned have expired.

relationships between the **Union** institutions and bodies and their officials and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular the procedures referred to in Article 90(1) and (2) of the Staff Regulations, have been exhausted by the person concerned and the time limits for replies by the authority thus petitioned have expired. ***Specific exceptions to this may be provided for in sexual harassment cases.***

Or. en

#### *Justification*

*Given the sensitive nature of sexual harassment, a fast-track avenue to deal with these cases should be provided, with the support and supervision of the Ombudsman. The concrete procedures should be further defined in the implementing provisions of this Statute and would be contingent on ensuring adequate resources.*

#### **Amendment 11**

##### **Ombudsman Statute Article 2 – point 9**

#### *Current text*

9. The Ombudsman shall as soon as possible inform the person lodging the complaint of the action ***he has*** taken on it.

#### *Amendment*

9. The Ombudsman shall as soon as possible, ***and no later than twenty working days***, inform the person lodging the complaint of the action taken on it.

Or. en

#### *Justification*

*Introducing a certain timeframe for reply, without prejudice of further clarifications on the procedures within the Implementing provisions.*

## Amendment 12

### Ombudsman Statute Article 3 – point 1 a (new)

*Current text*

*Amendment*

***1a. The Ombudsman may conduct, without prejudice to their regular duties of handling complaints, inquiries of a more strategic or structural nature, in order to combat maladministration and promote good administrative practices in the Union institutions, offices, bodies and agencies;***

Or. en

*Justification*

*This is to codify the current praxis, given that the Ombudsman has been already conducting this kind of investigations. The reference both to maladministration and good administration come both from article 228 TFEU and article 41 of the EU Charter of Fundamental Rights, respectively.*

## Amendment 13

### Ombudsman Statute Article 3 – point 2

*Current text*

*Amendment*

2. The **Community** institutions and bodies shall be obliged to supply the Ombudsman with any information **he has** requested from them and **give him** access to the files concerned. Access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, shall be subject to compliance with the rules on security of the **Community** institution or body concerned.

The institutions or bodies supplying classified information or documents as

2. The **Union** institutions and bodies shall be obliged to supply the Ombudsman with any information requested from them and **provide** access to the files concerned. Access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, shall be subject to compliance with the rules on security of the **Union** institution or body concerned.

The institutions or bodies supplying classified information or documents as

mentioned in the previous subparagraph shall inform the Ombudsman of such classification.

For the implementation of the rules provided for in the first subparagraph, the Ombudsman shall have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents **and other information covered by the obligation of professional secrecy.**

The institutions or bodies concerned shall give access to documents originating in a Member State and classed as secret by law or regulation only **where that Member State has given its prior agreement.**

They shall give access to other documents originating in a Member State after having informed the Member State concerned.

***In both cases, in accordance with Article 4, the Ombudsman may not divulge the content of such documents.***

Officials and other servants of **Community** institutions and bodies must testify at the request of the **Ombudsman; they shall continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy.**

mentioned in the previous subparagraph shall inform the Ombudsman of such classification ***in advance.***

For the implementation of the rules provided for in the first subparagraph, the Ombudsman shall have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents.

The institutions or bodies concerned shall give access to documents originating in a Member State and classed as secret by law or regulation only **where the appropriate measures for handling the documents with an equivalent level of security have been established.**

They shall give access to other documents originating in a Member State after having informed the Member State concerned.

Officials and other servants of **Union** institutions, offices, bodies and agencies must testify at the request of the **Ombudsman.**

Or. en

### *Justification*

*Classified information should be made accessible to the Ombudsman in line with the relevant rules on information security and the related procedures. There is an existing regulation<sup>1</sup> which already contains provisions on access to documents, notably including exceptions, and this should remain as the legislation of reference. The Ombudsman Statute is not to be the place to introduce more restrictions in this regard. Secondly, for the Ombudsman to conduct inquiries more efficiently, officials or other servants should not be bound by professional secrecy in these specific cases.*

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<sup>1</sup> Reference: Regulation 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

## Amendment 14

### Ombudsman Statute Article 3 – point 3

#### *Current text*

3. The Member States' authorities shall be obliged to provide the Ombudsman, whenever **he** may **so request**, via the Permanent Representations of the Member States to the European **Communities**, with any information that may help to clarify instances of maladministration by **Community** institutions or bodies **unless such information is covered by laws or regulations on secrecy or by provisions preventing its being communicated. Nonetheless, in the latter case, the Member State concerned may allow the Ombudsman to have this information provided that he undertakes not to divulge it.**

#### *Amendment*

3. The Member States' authorities shall be obliged to provide the Ombudsman, whenever **it** may **be requested**, via the Permanent Representations of the Member States to the European **Union**, with any information that may help to clarify instances of maladministration by **Union** institutions or bodies.

Or. en

#### *Justification*

*Secrecy is already tackled in the previous paragraphs. The goal is to provide as much information to the Ombudsman as possible in the context of investigations. Moreover, it is redundant to include detailed provisions here already covered by other binding legislation.*

## Amendment 15

### Ombudsman Statute Article 3 – point 4

#### *Current text*

4. If the assistance **which he requests** is not forthcoming, the Ombudsman shall inform the European Parliament, which

#### *Amendment*

4. If the assistance **requested** is not forthcoming, the Ombudsman shall inform the European Parliament, which shall make appropriate representations, **including the**

shall make appropriate representations.

***ensuring of the Ombudsman's presence in committee meetings and other meetings or hearings.***

Or. en

*Justification*

*Allow for more presence of the Ombudsman in the Parliament, which is already foreseen under Article 220 of Parliament's Rules of Procedure<sup>1</sup>*

**Amendment 16**

**Ombudsman Statute  
Article 3 – point 4 a (new)**

*Current text*

*Amendment*

***4a. The Ombudsman may request where appropriate to appear before the responsible committee of the Parliament in relation to an ongoing inquiry, together with any Union institution concerned in the case.***

Or. en

*Justification*

*Allow for more presence of the Ombudsman in the Parliament, which is already foreseen under Article 220(2) of Parliament's Rules of Procedure.*

**Amendment 17**

**Ombudsman Statute  
Article 3 – point 7**

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<sup>1</sup> ***Rule 220 : Activities of the Ombudsman***

*2. The Ombudsman may also provide the committee responsible with information at its request, or be heard by it on his or her own initiative.*

*Current text*

7. The Ombudsman **shall** then send a report to the European Parliament and to the institution or body concerned. **He** may make recommendations in his report. The person lodging the complaint shall be informed by the Ombudsman of the outcome of the inquiries, of the opinion expressed by the institution or body concerned and of any recommendations made by the Ombudsman.

*Amendment*

7. The Ombudsman **may** then send a report to the European Parliament and to the institution or body concerned. **The Ombudsman** may make recommendations in the report. The person lodging the complaint shall be informed by the Ombudsman of the outcome of the inquiries, of the opinion expressed by the institution or body concerned and of any recommendations made by the Ombudsman. **The Ombudsman will appear before the plenary of the Parliament when appropriate.**

Or. en

*Justification*

*To give flexibility to the Ombudsman, while allowing room to continue with the Special reports to the Parliament. In order to institutionalise the presence of the Ombudsman at the highest level within the Parliament, it should be mentioned in the Statute that for instance in the case of Special Reports they should be presented before the plenary.*

**Amendment 18**

**Ombudsman Statute  
Article 3 – point 8**

*Current text*

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of his inquiries.

*Amendment*

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of their inquiries, **including an assessment of the adequacy of resources available for the Ombudsman to perform their duties.**

Or. en

*Justification*

*Attempt to ensure that there is an adequate level of resources, with regard to the procedure*

foreseen in article 11(2) of the current Statute on the number of personnel working for the Ombudsman.

## **Amendment 19**

### **Ombudsman Statute Article 4 – point 1**

*Current text*

*Amendment*

**1. The Ombudsman and his staff, to whom Article 287 of the Treaty establishing the European Community and Article 194 of the Treaty establishing the European Atomic Energy Community shall apply, shall be required not to divulge information or documents which they obtain in the course of their inquiries. They shall, in particular, be required not to divulge any classified information or any document supplied to the Ombudsman, in particular sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, or documents falling within the scope of Community legislation regarding the protection of personal data, as well as any information which could harm the person lodging the complaint or any other person involved, without prejudice to paragraph 2.** **deleted**

Or. en

*Justification*

*The Ombudsman is bound by Regulation 1049/2001 just like all the other institutions and therefore this should be amended accordingly, rather than carving out a separate exception specifically for the Ombudsman's investigations.*

## **Amendment 20**

### **Ombudsman Statute Article 4 a (new)**

*Current text*

*Amendment*

**4a. The Ombudsman and their staff shall deal with requests for public access to documents in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001. With regards to complaints regarding the right of public access to official documents, the Ombudsman shall, following due analysis and all necessary considerations, issue a binding decision concerning the release or else of said documents, which the concerned institution, agency or body shall deliver within the time frames provided for by Regulation 1049/2001.**

Or. en

*Justification*

*There are countries where the Ombudsman is also an Information Officers. The Court cannot proactively force institutions to give access to institutional documents, but can only eventually invalidate the refusal of access, after time and resource-consuming proceedings. For the sake of ensuring good administration the Ombudsman should therefore be able to make binding recommendations on the release - or not - of specific documents, upon receiving a complaint. There is no provision in the Treaties which specifically prevents making the Ombudsman's recommendations binding.*

## **Amendment 21**

### **Ombudsman Statute Article 5 – point 1**

*Current text*

*Amendment*

1. In so far as it may help to make his enquiries more efficient and better safeguard the rights and interests of persons who make complaints to him, the Ombudsman may cooperate with authorities of the same type in certain Member States provided he complies with the national law applicable. ***The Ombudsman may not by this means***

1. In so far as it may help to make enquiries more efficient and better safeguard the rights and interests of persons who make complaints, the Ombudsman may cooperate with authorities of the same type in certain Member States provided they comply with the national law applicable.

***demand to see documents to which he would not have access under Article 3.***

Or. en

*Justification*

*In the same logic as in the previous amendments, this Statute should not become a sort of restrictive interpretation of existing legislation in place on access to documents. In this sense, the Ombudsman should not be prevented from requesting certain documents from Member States that are deemed necessary for the conduct of their investigations. If such a request is not compliant with the security provisions in place, the Member State could eventually refuse to provide them.*

**Amendment 22**

**Ombudsman Statute  
Article 5 a (new)**

*Current text*

*Amendment*

***5a. The Ombudsman shall conduct regular assessments of the whistleblowing policies and procedures in place in the relevant EU institutions, bodies and agencies, and formulate appropriate recommendations for improvement***

***The Ombudsman may confidentially provide impartial expert guidance to potential whistle-blowers concerning the scope of application of the relevant provisions in the Union's legislation.***

Or. en

*Justification*

*The Ombudsman is already entitled to address complaints submitted by whistleblowers where the failure to reply by an institution could (or could not) be considered maladministration.*

*However, taking into account the obvious link between whistle-blowing and possible instances of maladministration, coupled with the fact that Article 22 of the Staff Regulations obliges staff to blow the whistle in any case, and also given the sensitive situation that many potential whistleblowers may find themselves in, ensuring a constructive role for the Ombudsman is necessary.*

*The Ombudsman already launched an own initiative inquiry into nine EU institutions to see if they had implemented the requirement to have internal whistleblowing rules and then formulated appropriate recommendations. Where potential whistleblowers lack expertise about the applicability of specific rules or procedures on whistleblowing, they should also be able to obtain impartial and confidential advice from the Ombudsman on the correct procedures to follow.*

## **Amendment 23**

### **Ombudsman Statute Article 5 b (new)**

*Current text*

*Amendment*

***5b. The Ombudsman has amongst their responsibilities the need to ensure the impartiality of the Union's administrative actions, and accordingly has the capacity to review whether the general procedures and their concrete application in particular cases comply with this principle.***

***The Ombudsman may identify and assess possible instances of conflicts of interest at all levels within the Union institutions, agencies and bodies, which could constitute a source of maladministration.***

***Where appropriate it shall inform the Parliament of the conclusions of its findings.***

Or. en

*Justification*

*There have been recent cases of conflicts of interests (e.g. ECI case) where the Ombudsman has taken a stance<sup>1</sup>.*

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<sup>1</sup> *Decision of the European Ombudsman closing her own-initiative inquiry OI/9/2013/TN concerning the European Commission.*

## Amendment 24

### Ombudsman Statute

#### Article 6 – point 2

##### *Current text*

2. The Ombudsman shall be chosen from among persons who are Union citizens, have full civil and political rights, offer every guarantee of independence, and ***meet the conditions required for the exercise of the highest judicial office in their country*** or have the acknowledged competence and experience to undertake the duties of Ombudsman.

##### *Amendment*

2. The Ombudsman shall be chosen from among persons who are Union citizens, have full civil and political rights, offer every guarantee of independence, and have the acknowledged competence and experience to undertake the duties of Ombudsman.

Or. en

##### *Justification*

*This definition is outdated. For instance, the current Ombudsman has a different background but is fully competent for the role.*

## Amendment 25

### Ombudsman Statute

#### Article 8 – point 2

##### *Current text*

2. An Ombudsman who no longer fulfils the conditions required for the performance of ***his*** duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Communities at the request of the European Parliament.

##### *Amendment*

2. An Ombudsman who no longer fulfils the conditions required for the performance of ***their*** duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Union at the request of the European Parliament, ***after having been heard by the competent committees.***

Or. en

##### *Justification*

*Addition of one more step to the procedure. In order to guarantee a debate in the public eye given the nature of the institution and the crucial role it plays vis-à-vis the EU citizens. This*

*should be done before the institution primarily responsible for the appointment of the Ombudsman, namely the Parliament.*

## **Amendment 26**

### **Ombudsman Statute Article 11 – point 1 a (new)**

*Current text*

*Amendment*

***1a. The Ombudsman should aim to achieve gender parity within the composition of the Secretariat and staff.***

Or. en

*Justification*

*Codification in order to ensure gender neutrality at the Ombudsman's office, which is normally already a policy in place.*

## **Amendment 27**

### **Ombudsman Statute Article 12**

*Current text*

*Amendment*

***deleted***

***The Ombudsman shall appoint within their secretariat a person or structure that is able to assess in a timely manner whether harassment cases of all kind and nature are handled adequately within the Union's institutions, agencies and bodies and, where appropriate, to provide advice to EU officials.***

Or. en

*Justification*

*The Ombudsman should be able to undertake inquiries to look into how anti-harassment policies are applied in practice and to make recommendations as appropriate. Harassment in the office, whether sexual or not, can be a source of maladministration if adequate measures*

*are not put in place or monitored proactively. The Ombudsman's office may also provide advice to EU officials who may or may not be suffering from harassment, and mediation could also be provided if more resources are made available to the office of Ombudsman. Further details on the concrete functioning of this structure are to be defined in the updated Implementing provisions following the adoption of this Statute.*

## **Amendment 28**

### **Ombudsman Statute Article 13**

#### *Current text*

The seat of the Ombudsman shall be that of the European Parliament.

#### *Amendment*

The seat of the Ombudsman shall be ***in Brussels.***

Or. en

#### *Justification*

*Bearing in mind that already half of the staff of the Ombudsman's office work in Brussels it seems a move in the right direction to ease the work of the staff. Moreover, removing the reference to the seat of a specific institution will also be important to symbolically reinforce the logic of the Ombudsman's independence from any political or administrative influence. The appropriate transitional period considering the implications for the personnel affected should be envisaged.*

## **Amendment 29**

### **Ombudsman Statute Article 15**

#### *Current text*

***The first Ombudsman to be appointed after the entry into force of the EU Treaty shall be appointed for the remainder of the parliamentary term.***

#### *Amendment*

***deleted***

Or. en

#### *Justification*

*Obsolete provision.*

## Amendment 30

### Ombudsman Statute Article 17

#### *Current text*

This **Decision** shall be published in the Official Journal of the European **Communities**. It shall enter into force on the date of its publication.

#### *Amendment*

This **Regulation** shall be published in the Official Journal of the European **Union**. It shall enter into force on the date of its publication.

Or. en

#### *Justification*

*See am 1 and am 2. This is a new binding legislative act in form of a regulation, according to the Lisbon Treaty provisions, where the nomenclature “Community” and its legality is replaced by that of the “Union”.*