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## TEXTS ADOPTED

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### **P8\_TA(2017)0449**

#### **Activities of the European Ombudsman in 2016**

##### **European Parliament resolution of 16 November 2017 on the annual report on the activities of the European Ombudsman in 2016 (2017/2126(INI))**

*The European Parliament,*

- having regard to the annual report on the European Ombudsman's activities in 2016,
- having regard to Article 15 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Articles 24 and 228 of the TFEU,
- 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 UN 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<sup>2</sup>, as adopted by the European Parliament on 6 September 2001,
- having regard to the Framework Agreement on Cooperation concluded between the

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

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

European Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,

- having regard to its previous resolutions on the European Ombudsman’s activities,
  - having regard to Rule 220(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A8-0328/2017),
- A. whereas the annual report on the activities of the European Ombudsman 2016 was formally submitted to the President of Parliament on 17 May 2017 and the Ombudsman, Emily O’Reilly, presented the report to the Committee on Petitions in Brussels on 30 May 2017;
- 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 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’; whereas ensuring that high-quality services are provided to EU citizens and that the EU administration is responsive to their needs and concerns is crucial in protecting citizens’ rights and fundamental freedoms;
- D. whereas Article 41(1) 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, bodies, offices and agencies of the Union’;
- E. 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’;
- F. whereas the main priority of the European Ombudsman is to ensure that citizens’ rights are fully respected and the right to good administration of EU institutions, bodies, offices or agencies reflects the highest standards;
- G. whereas in 2016 15 797 citizens called on the Ombudsman’s services for help, of whom 12 646 were given advice through the Interactive Guide on the Ombudsman’s website, while of the remaining requests 1 271 were forwarded elsewhere for information and 1 880 were handled by the Ombudsman as complaints;
- H. whereas of the total number of 1 880 complaints processed by the Ombudsman in 2016, 711 fell within and 1 169 fell outside the scope of the Ombudsman’s mandate;
- I. whereas in 2016 the Ombudsman opened 245 inquiries, of which 235 were complaint-based and 10 were own-initiative inquiries, while closing 291 inquiries (278 complaint-

based and 13 own-initiative inquiries); whereas most of the inquiries concerned the Commission (58,8 %), followed by the EU agencies (12,3 %), Parliament (6,5 %), the European Personnel Selection Office (EPSO) (5,7 %), the European External Action Service (EEAS) (4,5 %), the European Anti-Fraud Office (OLAF) (0,8 %) and other institutions (11,4 %);

- J. whereas the Ombudsman receives a large number of complaints from individuals and organisations about the EU administration every year, and whereas the top three concerns in the inquiries closed by the Ombudsman in 2016 were: transparency and public access to information and documents (29,6 %); good management of EU personnel issues (28,2 %); and culture of service (25,1 %); whereas other concerns include proper use of discretion including in infringement procedures, sound financial management of EU grants and contracts, and respect for procedural and fundamental rights; whereas the relevance of these issues highlights the pivotal role of the Ombudsman in ensuring that decision-making processes and administration at EU level are fully transparent and impartial, with a view to protecting citizens' rights and strengthening their confidence and public trust;
- K. whereas in its strategic work in 2016, the Ombudsman's office closed 5 strategic inquiries and opened 4 new ones on, among other subjects, possible conflicts of interest of special advisors and delays in chemical testing, and in addition it opened 10 new strategic initiatives;
- L. whereas the Ombudsman launched a wide strategic inquiry into how the Commission appoints and carries out conflict of interest assessments for its special advisers, who often work for private sector clients and the EU concurrently;
- M. whereas the Ombudsman inquired about the Code of Conduct for Board Members of the European Investment Bank (EIB), noting that it does not provide for the obligation to file a declaration of interests or a financial interest disclosure;
- N. whereas the financial crisis has brought about an economic and social crisis, thus undermining the credibility of the EU institutions;
- O. whereas the Ombudsman has found that the failure of the 2009-2014 Commission to deal with a former Commissioner's breach of the Code of Conduct for Commissioners and to properly investigate the compatibility of the Commissioner's private sector work contract with the EU Treaty obligations constitutes maladministration; whereas cases of maladministration concerning the post-mandate activities of Commissioners, including the Commission's President, increase citizens' mistrust towards the Commission;
- P. whereas the Ombudsman also cooperates with other international organisations, such as the UN, and is part of the EU framework under the UN Convention on the Rights of Persons with Disabilities (CPRD) tasked with protecting, promoting and monitoring the implementation of the Convention at the level of the EU institutions;
- Q. whereas according to the Flash Eurobarometer on European Union Citizenship of March 2016, 9 out of 10 EU citizens (87 %) are familiar with their status as citizens of the Union and their right to make a complaint to Parliament, to the Commission or to the Ombudsman;

1. Approves the annual report for 2016 presented by the European Ombudsman, and commends its clear and easy-to-read presentation setting out the most important facts and figures concerning the Ombudsman's work in 2016;
2. Congratulates Emily O'Reilly for her excellent work in improving the quality and accessibility of the Ombudsman's services and for her collaborative cooperation and positive engagement with Parliament, in particular the Committee on Petitions, and with other EU institutions, bodies, offices and agencies;
3. Acknowledges the role of strategic inquiries and initiatives, and supports those conducted by the Ombudsman pursuing strategically important topics on her own initiative that are in the public interest of the European citizens; commends the Ombudsman's efforts to make better use of her strategic work in allowing complaint-based cases with similar content to be dealt with collectively;
4. Welcomes the Ombudsman's determination to respond promptly and efficiently to the needs and concerns of EU citizens, and supports the new working methods and streamlined case handling procedure introduced in 2016, which enable greater flexibility and efficiency and greater impact on a larger number of citizens;
5. Agrees that the current and unprecedented challenges facing the EU, such as unemployment, economic and social inequalities, the migration crisis and Brexit, compel all institutions, bodies, offices and agencies of the Union, including the Ombudsman, to work harder and with more determination in order to ensure the highest levels of social justice, accountability and transparency at EU level;
6. Stresses the need to improve social dialogue;
7. Stresses that trust between citizens and the institutions is of paramount importance in the current economic climate;
8. Notes that the Ombudsman's office has achieved the second highest rate of compliance with its decisions and/or recommendations so far; recommends that the Ombudsman stay alert, identify reasons for non-compliance with its recommendations and inform Parliament of any recurrent cases of non-compliance on the part of the EU administration;
9. Notes the decreasing number of inquiries concerning the EU institutions conducted by the Ombudsman in 2016 (245 in 2016, 261 in 2015); urges the EU institutions, bodies, offices and agencies to respond and react within a reasonable timeframe to the critical remarks of the Ombudsman and to improve their rate of compliance with the Ombudsman's recommendations and/or decisions;
10. Notes that in 2016, most of the cases handled by the Ombudsman were closed within 12 months and that the average time needed to close an inquiry was 10 months, with only 30 % of cases being closed after 12 or more months; urges the Ombudsman to further improve her working methods and to reduce the time taken to handle complaints, especially in cases still open after 12 months, without compromising her work efficiency;
11. Notes that transparency-related inquiries, in particular concerning issues related to the transparency of decision-making processes, lobbying transparency, and access to EU

documents, again account for the greatest proportion of the cases handled by the Ombudsman, followed by other problems related to a range of issues, from the violation of fundamental rights and ethical issues, to EU contracts and grants;

12. Emphasises the essential role of transparency, good administration and institutional checks and balances in the work of the EU institutions; regrets that inquiries related to transparency and access to information and documents consistently constitute more than 20 % of all inquiries submitted to the Ombudsman and have remained an important concern among EU citizens over the years; calls on the EU institutions to publish information and documents proactively so as to increase transparency and reduce maladministration;
13. Believes that maximum transparency of and access to documents held by the EU institutions must be the rule; recalls the case-law of the Court of Justice of the EU (CJEU) which stipulates that citizens of the Union have a right of public access to documents of the Union's institutions, bodies and other agencies and that possible derogations from and exceptions to this right should always be weighed against the principles of transparency and democracy, as a pre-condition of the exercise of their democratic rights; considers that a revision of Regulation (EC) No 1049/2001 is needed in order to facilitate the Ombudsman's work in scrutinising the granting of access to documents by Parliament, the Council and the Commission;
14. Invites the Commission to improve transparency and access to documents and information with regard to the EU Pilot procedures in relation to petitions received and to the EU Pilot and infringement procedures that have already been closed; underlines the importance of regular follow-up with Parliament by the Commission; encourages the continuation of the Ombudsman's strategic inquiry into the Commission's transparency in handling infringement complaints under the EU Pilot procedures, and urges the Ombudsman to be determined and vigilant in continuing to investigate the matter in 2017; considers that unreasonable delays in the handling of initiated infringement and EU Pilot procedures could also fall into the domain of maladministration;
15. Commends the Ombudsman's determination to achieve the highest level of transparency in the EU decision-making process; stresses the need to monitor the implementation of the Ombudsman's recommendations for transparency in trilogues; calls on the Council and the Commission to publish relevant information regarding the decisions made in trilogues; reiterates, further, the need for full and enhanced transparency in trade agreements and negotiations, and calls on the Ombudsman to make continued efforts to monitor transparency in the negotiations for all EU trade agreements with third countries, while keeping in mind that this should not undermine the negotiating position of the EU;
16. Reiterates the importance of transparency on the part of all EU institutions in the negotiations between the EU and the UK on the latter's withdrawal from the Union without jeopardising the negotiating position of the parties; calls on the Ombudsman to monitor adherence to transparency throughout the withdrawal negotiations;
17. Calls for greater transparency in the EU's economic and financial decision-making process, in particular in the area of the banking supervision performed by the European Central Bank; supports, furthermore, the Ombudsman's recommendations to increase

the transparency of the EIB and the Eurogroup and to strengthen their internal ethics rules, while recognising her recent efforts in this regard and the fact that Regulation (EC) No 1049/2001 does not apply to the Eurogroup as it is not an institution or body within the meaning of the Treaties; calls for compliance with the Ombudsman's recommendations on the EIB Complaints Mechanism Review (EIB-CM) and underlines the importance of an independent complaints mechanism; invites the Ombudsman to play a more active role in ensuring that the new EIB-CM remains credible and efficient while respecting the principles of operational independence, transparency, accessibility, timeliness and adequate resources;

18. Expresses its full support for the Ombudsman's ultimate goal, which is to help strengthen the structures and institutions of accountability and transparency at EU level and to improve the quality of democracy in Europe;
19. Notes the Ombudsman's findings of maladministration with regard to the Code of Conduct for Commissioners; stresses the importance of high moral and ethical standards within the EU administration, and takes note of the Commission's decision to extend the cooling-off period to two years for former Commissioners and three years for former Commission Presidents, but strongly believes that stricter rules on ethics need to apply in all the EU institutions, including to both EU politicians and staff, with the aim of securing respect for the duty to behave with integrity and discretion and full independence from the private sector; calls on the Commission to guarantee proactive publication and full transparency with regard to the post-term-of-office occupation of former Commissioners; supports the Ombudsman's recommendations for further revision of the Code in accordance with the Treaty obligations, by making the rules more explicit and easy to implement so as to ensure credibility, impartiality and a lack of conflict of interest on a case-by-case basis; encourages the Ombudsman to continue to oversee and assess the level of independence of the Commission's Ad Hoc Ethical Committee;
20. Takes note of the Commission's steps in response to the Ombudsman's recommendations on how the EU staff rules governing the so-called 'revolving door' phenomenon have been implemented, and looks forward to the Ombudsman's follow-up inquiry assessing how the new rules work in practice;
21. Calls on the Ombudsman to continue her work to ensure the timely publication of the names of all EU officials involved in 'revolving door' cases and to guarantee full transparency with regard to all related information;
22. Supports the Ombudsman's commitment to improve EU lobbying transparency, and calls on the Commission to fully comply with the Ombudsman's suggestions for improving the EU Transparency Register by making it a mandatory central transparency hub for all EU institutions and agencies; underlines that clear action should be taken and coherent and effective work schedules developed to this end; stresses the importance of greater transparency, including with regard to information on funding, interest groups and financial interests;
23. Welcomes the Ombudsman's strategic inquiry into how the Commission carries out conflict of interest assessments for its special advisers; calls on the Commission to fully implement the Ombudsman's recommendations on the procedure for appointing special advisers, assessing any potential conflict of interest before and after their appointment

and providing public access and information with regard to documents and meetings;

24. Supports the Ombudsman's strategic inquiry on the Commission's expert groups; urges the Ombudsman to ensure that conflict of interest management and a balanced and equal representation of all stakeholders, including societal stakeholders, are improved in the new Commission rules, including the listing of all experts in the EU Transparency register;
25. Notes the Commission's position regarding transparency of its meetings with tobacco lobbyists and the transparency measures implemented by its Directorate-General for Health; reiterates its call on the Commission to change its practice and make its work fully transparent by publishing data online concerning all meetings with lobbyists or with their legal representatives, as well as the minutes of those meetings, in line with its obligations under the UN Framework Convention for Tobacco Control (FCTC);
26. Welcomes the Ombudsman's practical recommendations for public officials' interaction with lobbyists; urges the Ombudsman to increase awareness of these recommendations among staff members in all the EU institutions through educational training, seminars and related support measures and calls on all the EU institutions to implement the Ombudsman's Code of Good Administrative Behaviour and the transparency measures under the UN Framework Convention for Tobacco Control (FCTC); reiterates its call for an effective upgrade of the Code of Good Administrative Behaviour through adoption of a binding regulation on the matter during the current legislative term;
27. Commends the Ombudsman's strategic inquiry on access to documents relating to Council preparatory bodies, including its Committees, working parties and the Committee of Permanent Representatives (COREPER), when discussing draft EU legislative acts; encourages the Ombudsman to call on the Council to improve transparency with regard to its meetings with stakeholders and the decisions adopted, comply with access to document requirements, and provide this access in a timely manner and without delays;
28. Commends the Ombudsman's work in dealing with issues of general public interest, such as fundamental rights, the safety and efficiency of medicine, the protection of the environment and health, and safeguarding against environmental risks; calls on the Ombudsman to follow up on her proposals to the European Chemicals Agency on disincentives relating to animal testing when new cosmetic products are registered on the market, and to the EPSO on the application of the principle of force majeure and the transparency of EPSO competitions;
29. Acknowledges the Ombudsman's experience in dealing with cases of maladministration in the EU institutions linked to sexual harassment and abuse in the workplace, as was the case in relation to complaint 1283/2012/AN; invites the Ombudsman, in light of its resolution of 26 October 2017 on combating sexual harassment and abuse and of its decision to create a task force of independent experts to examine the situation of sexual harassment and abuse in Parliament, also to examine the situation of sexual harassment and abuse in the EU institutions, bodies, offices and agencies, and to provide recommendations and best practices for preventing new cases in the EU institutions;
30. Supports the Ombudsman's role in shaping a proactive and transparent policy on the clinical trials carried out by the European Medicines Agency (EMA) and in particular

the Ombudsman's recommendations on the approval of Humira, one of the world's best-selling drugs, which is used to treat Crohn's disease; urges the Ombudsman to continue monitoring the EMA to ensure that it meets the highest standards of transparency and access to information on clinical trials, namely standards that are in the public interest and of value to doctors, patients and researchers;

31. Invites the Ombudsman to further inquire into the practices within EU agencies, with a particular focus on the European Food Safety Authority and the European Chemicals Agency with regard to the Monsanto Papers and the possible implications in terms of secrecy and conflict of interest;
32. Welcomes the Ombudsman's inquiries following complaints by persons with disabilities, and encourages her work as an active participant in the EU Framework for the UN Convention on the Rights of Persons with Disabilities and her contribution to the implementation of the European Disability Strategy; reaffirms its full support for the full implementation of the Convention at EU level;
33. Calls on the Ombudsman to ensure that the Commission takes into account the Ombudsman's proposals and recommendations on the future revision of the European Citizens' Initiative (ECI) instrument with a view to ensuring that the procedures and conditions required for the ECI are genuinely clear, simple, easily applicable and proportionate;
34. Calls on the Ombudsman to ensure that the Commission will help to create an infrastructure providing legal advice on European citizens' initiatives and a legal framework that protects ECI members;
35. Recalls that whistle-blowers are crucial figures in unveiling cases of maladministration, and supports measures to encourage whistle-blowing effectively and improve the protection of whistle-blowers against retaliation, and calls on the Ombudsman to further assess the implementation of the new internal whistle-blowing rules in the EU institutions; encourages follow-up of the Ombudsman's 2015 inquiries relating to the EU institutions' internal whistle-blowing rules; welcomes the Ombudsman's own rules in this field and encourages other EU institutions to use them as guidance; reiterates its call for horizontal EU legislation on the protection of whistle-blowers which sets out appropriate channels and procedures for reporting all forms of maladministration, as well as adequate guarantees and legal safeguards at all levels for the individuals involved;
36. Proposes a review of the European Ombudsman's Statute to empower her to investigate alleged non-compliance with Regulation (EC) No 1049/2001 regarding public access to documents from EU institutions and bodies and to take decisions on the release of the relevant documents;
37. Welcomes the Ombudsman's initiative to identify best practices in the EU administration and bring them to greater public attention with the Ombudsman's Award for Good Administration;
38. Encourages the Ombudsman to continue collaboration with national ombudsmen through the European Network of Ombudsmen; supports the idea of holding the annual conference of the European Network of Ombudsmen in Brussels for the first time in



2016 and the Commission's commitment to work more effectively with the Network;

39. Is open to the idea of holding future annual conferences of the European Network of Ombudsmen on Parliament premises, given the direct links between the Committee on Petitions and the Ombudsman;
40. Recalls that the European Network of Ombudsmen could play an important role in defending EU citizens' rights in the negotiations on the UK's withdrawal from the EU;
41. Commends the Ombudsman for holding meetings with individual national ombudsmen and with civil society and business organisations; urges the Ombudsman to replicate those meetings in all Member States and further raise awareness of what the Ombudsman's Office can do for European citizens and businesses;
42. 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.-