



**2018/2080(INI)**

19.10.2018

# AMENDMENTS

## 31 - 77

**Draft opinion**

**Margrete Auken**

(PE623.941v01-00)

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

Ombudsman Statute



**Amendment 31**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Citation 1a (new)**

*Current text*

*Amendment*

***(1a) Whereas the constitutional treaties provide for the institution of the Ombudsman, is it imperative to ensure gender neutral language across all institutions and therefore considers the Ombudsperson as a more fitting title for the institution;***

Or. en

*Justification*

*The European Institute for Gender Equality defined gender-neutral language as language that is not gender-specific and which considers people in general, with no reference to women and men. Gender-neutral language is a generic term covering the use of non-sexist language, inclusive language or gender-fair language. The purpose of gender-neutral language is to avoid word choices which may be interpreted as biased, discriminatory or demeaning by implying that one sex or social gender is the norm. Using gender-fair and inclusive language also helps reduce gender stereotyping, promotes social change and contributes to achieving gender equality. Having the first woman serve at the post, bear the title Ombudsman is derogative.*

**Amendment 32**  
**Virginie Rozière**

**Ombudsman Statute**  
**Recital 7**

*Current text*

*Amendment*

(7) Whereas it is for the European Parliament to appoint the Ombudsman at the beginning of its mandate and for the duration thereof, choosing him from among persons who are Union citizens and

(7) Whereas it is for the European Parliament to appoint the Ombudsman at the beginning of its mandate and for the duration thereof, choosing him from among persons who are Union citizens and

offer every requisite guarantee of independence and competence;

offer every requisite guarantee of independence and competence ***and shall not have held a political function at national ministerial level or within the European institutions;***

Or. en

### **Amendment 33**

**Jean-Marie Cavada, Nathalie Griesbeck, David Martin, Elisabeth Morin-Chartier, Cristian Dan Preda, Franck Proust, Anne Sander, Róza Gräfin von Thun und Hohenstein, Rainer Wieland**

#### **Ombudsman Statute Recital 10**

##### *Current text*

(10) 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*

(10) 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 seat of*** the European Parliament;

Or. en

##### *Justification*

*The current seat has enabled the European Ombudsman to conduct his duties efficiently and independently.*

### **Amendment 34**

**Eleonora Evi**

#### **Ombudsman Statute Recital 11**

##### *Current text*

(11) Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision; ***whereas furthermore***

##### *Amendment*

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

*certain transitional provisions should be laid down for the first Ombudsman to be appointed after the entry into force of the Treaty on European Union,*

Or. it

*Justification*

*The amendment seeks to delete a part of the text that has become obsolete because it was only applicable to the first Ombudsman.*

**Amendment 35**  
**Eleonora Evi**

**Ombudsman Statute**  
**Article 1 – paragraph 2**

*Current text*

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

*Amendment*

2. The Ombudsman shall perform his duties in accordance with the powers conferred on the Community institutions and bodies by the Treaties ***and in accordance with the provisions of Articles 20, 24 and 228 of the Treaty on the Functioning of the European Union and Article 43 of the EU Charter of Fundamental Rights. The Ombudsman shall carry out his duties with the aim of ensuring full respect for the right to good administration and full transparency and democracy in the decision-making processes at the Union institutions, bodies, offices and agencies;***

Or. it

*Justification*

*The purpose of this amendment is to flesh out in greater detail the provisions of the Treaties directly relating to the European Ombudsman and the objectives of his action.*

**Amendment 36**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 1 – paragraph 2**

*Current text*

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

*Amendment*

2. *The Ombudsperson*<sup>1a</sup> shall perform *its* duties in accordance with the powers conferred on the *Union* institutions and bodies by the Treaties.

<sup>1a</sup>*This amendment applied horizontally*

Or. en

**Amendment 37**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 1 – paragraph 3**

*Current text*

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

*Amendment*

3. The *Ombudsperson* may intervene in cases before *the Court of Justice of the European Union and the under the same conditions as other interveners establishing a special interest for the result of the case pending before the Court*.

Or. en

**Amendment 38**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 1 – paragraph 3**

*Current text*

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

*Amendment*

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

**Amendment 39**

**Rainer Wieland, Róza Gräfin von Thun und Hohenstein, Franck Proust, Anne Sander**

**Ombudsman Statute**

**Article 1 – paragraph 3**

*Current text*

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

*Amendment*

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

Or. en

*Justification*

*Article 228 TFEU, which constitutes the legal basis for the Ombudsman Statute, does not allow empowering the Ombudsman to intervene before courts.*

**Amendment 40**

**Virginie Rozière**

**Ombudsman Statute**

**Article 1 – paragraph 4 a (new)**

*Current text*

*Amendment*

***4a. In cases falling within its duties, the Ombudsman may intervene in cases before the Court of Justice of the European Union in accordance with article 40 of the statute of the Court of Justice of the European Union.***

Or. en

**Amendment 41**

**Kostadinka Kuneva**

**Ombudsman Statute**

## Article 2 – paragraph 2

### *Current text*

2. Any citizen of the Union or any natural or legal person residing or having its registered office in a Member State of the Union may, directly or through a Member of the European Parliament, refer a complaint to the **Ombudsman** in respect of an instance of maladministration in the activities of **Community** institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. The **Ombudsman** shall inform the institution or body concerned as soon as a complaint is referred to **him**.

### *Amendment*

2. Any citizen of the Union or any natural or legal person residing or having its registered office in a Member State of the Union may, directly or through a Member of the European Parliament, refer a complaint to the **Ombudsperson** in respect of an instance of maladministration in the activities of **Union** institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role. The **Ombudsperson** shall inform the institution or body concerned as soon as a complaint is referred to **it, adhering to the EU standards of data protection**.

Or. en

## Amendment 42

Eleonora Evi

### Ombudsman Statute

#### Article 2 – paragraph 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 without further action.**

### *Amendment*

7. The Ombudsman **shall suspend the examination of a complaint and take no decision on it where** legal proceedings **are** in progress concerning the facts **on which the complaint is based. The Ombudsman shall have the right to take a decision and make recommendations if he finds that a Union institution, body, office or agency is not complying with, or is not complying correctly with, a judgment of the Court of Justice of the European Union.**

Or. it

## Justification

*Without prejudice to the provisions preventing the Ombudsman from calling into question the merits of a court decision, it seems appropriate to allow the Ombudsman to examine a complaint after a court case has been completed in order to investigate possible cases of maladministration, even if they do not qualify as illegal conduct. It is also considered appropriate to allow the Ombudsman to take decisions or make recommendations on correct compliance with the judgments of the Court of Justice of the European Union.*

### **Amendment 43** **Kostadinka Kuneva**

#### **Ombudsman Statute** **Article 2 – paragraph 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 paragraph ***shall be filed without further action***.

##### *Amendment*

7. When the ***Ombudsperson***, because of legal proceedings in progress or concluded concerning the facts which have been put forward, ***can suspend consideration of the complaint until adjudication is concluded or can issue interim recommendations***, the outcome of any enquiries he has carried out up to that paragraph ***can be presented confidentially and upon request to the competent authority***.

Or. en

### **Amendment 44** **Kostadinka Kuneva**

#### **Ombudsman Statute** **Article 2 – paragraph 8**

##### *Current text*

8. No complaint may be made to the ***Ombudsman*** that concerns work relationships between the ***Community*** institutions and bodies and their officials

##### *Amendment*

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

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, **or** the time limits for replies by the authority thus petitioned have expired ***without reply or the procedures are manifestly futile or the official and other servant cannot avail itself to them due to status. In the latter case a complaint may be filed in parallel with internal proceedings.***

Or. en

#### **Amendment 45**

**Rainer Wieland Franck Proust, Anne Sander, Róza Gräfin von Thun und Hohenstein**

#### **Ombudsman Statute Article 2 – paragraph 8**

##### *Current text*

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

##### *Amendment*

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

Or. en

#### **Amendment 46**

**Rainer Wieland, Anne Sander**

**Ombudsman Statute**  
**Article 2 – paragraph 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 in a pre-determined timeframe**, inform the person lodging the complaint of the action he has taken on it.

Or. en

*Justification*

*Setting up a deadline in the Statute for the Ombudsman to inform back the complainant on the actions taken or intended will further raise her accountability and citizens' trust.*

**Amendment 47**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 2 – paragraph 9a (new)**

*Current text*

*Amendment*

**9a. The Ombudsman may be subject to an action for failure to act in accordance with Article 265 of the Treaty on the Functioning of the EU.**

Or. en

**Amendment 48**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 1**

*Current text*

1. The **Ombudsman** shall, on his own initiative or following a complaint,

*Amendment*

1. The **Ombudsperson** shall **be empowered**, on his own initiative or

conduct all the enquiries which *he considers* justified to clarify any suspected maladministration in the activities of *Community* institutions and bodies. *He shall inform the institution or body concerned of such action, which may submit any useful comment to him.*

following a complaint, *to* conduct all the enquiries which *they consider* justified to clarify any suspected maladministration in the activities of *Union* institutions and bodies *without requiring prior authorization. Any institution or body concerned may be informed in due time and be requested to submit any useful comment or evidentiary materials.*

Or. en

**Amendment 49**  
**Rainer Wieland, Franck Proust, Anne Sander**

**Ombudsman Statute**  
**Article 3 – paragraph 1a (new)**

*Current text*

*Amendment*

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

Or. en

**Amendment 50**  
**Eleonora Evi**

**Ombudsman Statute**  
**Article 3 – paragraph 1 a (new)**

*Current text*

*Amendment*

*1a. The Ombudsman may conduct strategic investigations to proactively address systemic issues of public interest which may affect good administration, full transparency and democracy of the*

*Justification*

*This amendment is aimed at incorporating into the provisions of the Statute a practice that the Ombudsman has been observing for some considerable time.*

**Amendment 51**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 2**

*Current text*

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 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

*Amendment*

2. The *Union* institutions and bodies shall be obliged to supply the *Ombudsperson* with any information *they have* requested from them and give *them* 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 *or an undertaking of confidentiality.*

*Such obligations relating to sensitive documents shall not provide an impediment to the Ombudsperson capacity to carry out effectively its duties and functions.*

The institutions or bodies supplying classified information or documents as mentioned in the previous subparagraph shall inform the *Ombudsperson* of such classification.

For the implementation of the rules provided for in the first subparagraph, the *Ombudsperson* shall have agreed in advance with the institution or body concerned the conditions for treatment of

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.

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 *after the Ombudsperson's services have put in place safeguards that ensure confidentiality*.

*When such classification is not pertinent* access *shall be given* to other documents originating in a Member State *and* the Member State concerned *shall be informed*.

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

Officials and other servants of *Union* institutions and bodies must testify at the request of the *Ombudsperson*; they shall continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy *which shall not be interpreted as extending to information relevant for complaints or inquiries of harassment or maladministration*.

Or. en

## Amendment 52 Virginie Rozière

### Ombudsman Statute Article 3 – paragraph 2

#### *Current text*

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

#### *Amendment*

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

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 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.

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 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 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 *has to observe a strict application of Regulation 1049/2001*.

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.

Or. en

**Amendment 53**  
**Rainer Wieland, Franck Proust, Anne Sander**

**Ombudsman Statute**  
**Article 3 – paragraph 2**

*Current text*

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 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.

*Amendment*

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 **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 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 **Union** institutions, offices, bodies and agencies 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.

*Justification*

*The access to classified information or documents, in particular to sensitive documents are laid down in Article 9 of Regulation 1049/2001 is subject to compliance with the rules on security of the Union institution or body concerned. Moreover, the principle of sincere cooperation, as enshrined in Article 4(3) TEU must be fully respected.*

**Amendment 54****Kostadinka Kuneva****Ombudsman Statute****Article 3 – paragraph 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 ***Ombudsperson***, whenever ***upon*** request, via the Permanent Representations of the Member States to the European ***Union***, 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 ***Ombudsperson*** to have this information provided that he undertakes not to divulge it ***and in any case provide a detailed description of the document and sufficient justification for not divulging.***

Or. en

**Amendment 55****Rainer Wieland, Franck Proust, Anne Sander****Ombudsman Statute****Article 3 – paragraph 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 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.

Or. en

**Amendment 56**  
**Virginie Rozière**

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

*Current text*

*Amendment*

*4a. Where appropriate the Ombudsman may be requested to appear before the responsible committee of the Parliament in relation to the Ombudsman's duties. When this request concerns an on-going inquiry, the institution concerned may be requested to appear together with the Ombudsman.*

Or. en

**Amendment 57**  
**Eleonora Evi**

**Ombudsman Statute**  
**Article 3 – paragraph 6**

*Current text*

6. If the Ombudsman finds there has been maladministration, he shall inform the institution or body concerned, where appropriate making draft recommendations. The institution or body so informed shall send the Ombudsman a detailed opinion within three months.

*Amendment*

6. If the Ombudsman finds there has been maladministration, he shall inform the institution or body concerned, where appropriate making draft recommendations. The institution or body so informed shall send the Ombudsman a detailed opinion within three months. ***In the event of a persistent refusal to give effect to the Ombudsman's recommendations in cases relating to complaints, the Ombudsman may adopt a further recommendation on the granting of legal aid or cover for the legal costs incurred by complainants, in order to enable them to defend their rights before the Court of Justice of the European Union and obtain a binding decision on the matter.***

Or. it

*Justification*

*This amendment is intended to increase the prerogatives of the Ombudsman and improve the effectiveness of the protection of citizens' rights. Implementing provisions should be laid down to detail the technical aspects of the granting of legal aid or coverage of legal costs for complainants.*

**Amendment 58**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 6**

*Current text*

6. If the ***Ombudsman*** finds there has been maladministration, ***he*** shall inform the institution or body concerned, ***where***

*Amendment*

6. If the ***Ombudsperson*** finds there has been maladministration, ***they*** shall inform the institution or body concerned,

*appropriate* making draft recommendations. The institution or body so informed shall send the **Ombudsman** a detailed opinion within three months.

making draft recommendations. The institution or body so informed shall send the **Ombudsperson** a detailed opinion within three months.

Or. en

**Amendment 59**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 6 a (new)**

*Current text*

*Amendment*

**6a.** *The Ombudsperson may conduct, own initiative inquiries of relevant nature in order to identify systematic maladministration, lack of transparency Union institutions, offices, bodies and agencies; The Ombudsperson shall be accordingly empowered to engage in structured and regular dialogue with the institutions and organize public consultations before providing recommendations or at any stage thereafter as well as systematically analyse and assess progress of the institution affected;*

Or. en

**Amendment 60**  
**Rainer Wieland, Anne Sander**

**Ombudsman Statute**  
**Article 3 – paragraph 7**

*Current text*

*Amendment*

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

7. The Ombudsman may then send a report to the European Parliament and to the institution or body concerned. **The Ombudsman** may make recommendations

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.

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. *The Parliament could request the Ombudsman to appear before the plenary when appropriate.*

Or. en

**Amendment 61**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 7 a (new)**

*Current text*

*Amendment*

*7a. The Ombudsperson on their own motion undertake initiatives as deemed necessary to promote best administrative practices among EU institutions and bodies;*

Or. en

**Amendment 62**  
**Kostadinka Kuneva**

**Ombudsman Statute**  
**Article 3 – paragraph 8 a (new)**

*Current text*

*Amendment*

*8a. The Ombudsperson shall be capable to report corroborating evidence on mishandling of EU budget to the European Anti-Fraud Office (OLAF) for further investigation and the European Public Prosecutor's Office and develop strategic partnerships thereof;*

**Amendment 63**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 4 – paragraph 1**

*Current text*

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.***

*Amendment*

1. Article 339 of the Treaty ***on the Functioning of the European Union*** and Article 194 of the Treaty establishing the European Atomic Energy Community shall apply to the Ombudsman and his staff.

***The Ombudsman and his staff shall strictly apply Regulation 1049/2001 on information or documents which they obtain in the course of their inquiries. Particular attention is required for the treatment of classified or 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.***

Or. en

**Amendment 64**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 4a**

*Current text*

The Ombudsman and his staff shall deal with requests for public access to

*Amendment*

The Ombudsman and his staff shall deal with requests for public access to

documents, *other than those referred to in Article 4(1)*, in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001.

documents in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001. *With regard to complaints on the right of public access to official documents, the Ombudsman shall issue, following due analysis and all necessary consideration, a recommendation concerning the release of the said documents to the concerned institution. If the concerned institution does not follow the recommendation to divulge the said documents, it must duly motivate its refusal. This refusal may be referred to the Court of Justice of the European Union by the Ombudsman.*

Or. en

**Amendment 65**  
**Rainer Wieland, Anne Sander**

**Ombudsman Statute**  
**Article 4a**

*Current text*

The Ombudsman and *his* staff shall deal with requests for public access to documents, other than those referred to in Article 4(1), in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001.

*Amendment*

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 recommendation concerning the release or else of said documents, to which the concerned institutions, agency or body shall respond within the time frames provided by Regulation 1049/2001.*

Or. en

**Amendment 66**  
**Virginie Rozière**

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

*Current text*

*Amendment*

**4a. Where appropriate, the Ombudsman may demand that the Court of Justice of the European Union applies the accelerated procedure provided in its rules of procedures.**

Or. en

**Amendment 67**  
**Rainer Wieland, Franck Proust, Anne Sander**

**Ombudsman Statute**  
**Article 5 paragraph 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** demand to see documents to which he would not have access under Article 3.

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. The Ombudsman **is not authorised to** demand to see documents to which he would not have access under Article 3.

Or. en

*Justification*

*Under EU law it is legally not possible to give competences to the European Ombudsman to provide support to whistle-blowers or to give advice to them. In order to give such duties to the European Ombudsman, the European Parliament would need, as for all EU secondary law to be adopted, a legal basis in EU primary law.*

**Amendment 68**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 5a (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 in accordance with Article 22 of the Staff Regulations. The Ombudsman may formulate appropriate recommendations for improvement.**

**Potential whistle-blowers may contact the Ombudsman in order to obtain information on the scope of application of the relevant provisions in the Union's legislation. This advice shall be impartial and confidential.**

Or. en

**Amendment 69**  
**Margrete Auken**

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

*Current text*

*Amendment*

**5a. The Ombudsman is also entitled to open new inquiries based on the information provided by whistle-blowers, who may report in confidentiality, in case the practices described could be constitutive of maladministration in the Union. In order to enable this purpose, applicable staff regulations regarding secrecy may be waived if necessary.**

Or. en

**Amendment 70**

**Eleonora Evi**

**Ombudsman Statute**

**Articolo 5 bis (nuovo)**

*Current text*

*Amendment*

**5a. The Ombudsman shall conduct regular reviews of the whistleblowing procedures and policies of the institutions, bodies, offices and agencies of the Union with a view to ensuring full protection for whistle blowers. The Ombudsman shall draw up appropriate conclusions on the subject.**

Or. it

*Justification*

*The purpose of this amendment is to entrust the Ombudsman, as part of his standard remit, with the task of carrying out regular reviews of procedures and policies relating to whistle blowers, in the same way as he has in the past performed an investigation on his own initiative concerning nine of the institutions, bodies, offices and agencies of the EU.*

**Amendment 71**

**Rainer Wieland, Franck Proust, Anne Sander**

**Ombudsman Statute**

**Article 5a (new)**

*Current text*

*Amendment*

**5a. The Ombudsman may conduct regular assessments of the whistleblowing policies and procedures in place in the relevant EU institutions, bodies and agencies.**

Or. en

**Amendment 72**  
**Eleonora Evi**

**Ombudsman Statute**  
**Articolo 5 ter (nuovo)**

*Current text*

*Amendment*

**5b. The Ombudsman shall periodically examine the procedures linked to the administrative action of Union institutions, bodies, offices and agencies and shall check whether they are able effectively to prevent conflicts of interest and to ensure full respect for the right to good administration. The Ombudsman shall draw up appropriate conclusions on the subject.**

Or. it

*Justification*

*It seems desirable to assign a proactive and systematic role to the Ombudsman in preventing conflicts of interest at Union institutions, bodies, offices and agencies, providing for regular examination of internal administrative procedures.*

**Amendment 73**  
**Virginie Rozière**

**Ombudsman Statute**  
**Article 6 – paragraph 2**

*Current text*

*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 meet the conditions required for the exercise of the highest judicial office in their country or have the acknowledgement competence and experience to undertake the duties of Ombudsman.

2. The Ombudsman shall be chosen from among persons who are Union citizens, have full civil and political rights, offer every guarantee of independence, **shall have not held a political function at national ministerial level or within the European institutions** and meet the conditions required for the exercise of the highest judicial office in their country or have the acknowledgement competence

and experience to undertake the duties of Ombudsman.

Or. en

**Amendment 74**  
**Margrete Auken**

**Ombudsman Statute**  
**Article 6 – paragraph 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 acknowledgement 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 *political* independence, and meet the conditions ***of impartiality likewise to a*** judicial office ***and*** have the acknowledgement competence and experience to undertake the duties of Ombudsman.

Or. en

**Amendment 75**  
**Rainer Wieland, Franck Proust, Anne Sander**

**Ombudsman Statute**  
**Article 6 – paragraph 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, meet the conditions required for ***high judicial positions*** in their country and have the acknowledged competence and experience to undertake the duties of ***the*** Ombudsman.

**Amendment 76**

**Eleonora Evi**

**Ombudsman Statute**

**Articolo 12 (nuovo)**

*Current text*

*Amendment*

*12. The Ombudsman shall examine in a timely manner whether the institutions, bodies, offices and agencies of the Union have correctly applied the procedures provided for in connection with complaints of any kind of harassment of any kind. The Ombudsman shall draw up appropriate conclusions on the subject. The Ombudsman shall periodically examine the procedures provided for in order to prevent harassment of any kind whatsoever within the institutions, bodies, offices and agencies of the Union and to penalise those responsible, and check whether those procedures are consistent with the principles of proportionality, adequacy and energetic action and whether they provide victims with effective protection and support. The Ombudsman shall draw up appropriate conclusions on the subject.*

Or. it

*Justification*

*The amendment seeks to give the Ombudsman a more direct role in preventing and combating any form of harassment in the Union's institutions, bodies, offices and agencies.*

**Amendment 77**

**Rainer Wieland, Jean-Marie Cavada, Nathalie Griesbeck, Edouard Martin, Elisabeth Morin-Chartier, Cristian Dan Preda, Róza Gräfin von Thun und Hohenstein, Franck Proust, Anne Sander**

**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 that of ***the seat of*** the European Parliament

Or. en

### *Justification*

*The current seat has enabled the European Ombudsman to conduct his duties efficiently and independently.*