



Secretary-General

Report on the follow-up to the discharge for the financial year 2016¹

Note to the Committee on Budgetary Control of the European Parliament

In accordance with Article 319(3) of the TFEU and Article 166 of the Financial Regulation, the European Ombudsman has taken steps to act on the observations made in the framework of Parliament's discharge decision for the financial year 2016.

This follow-up report seeks to provide information and, where relevant, summarise the actions taken.

The recommendations and observations made in the resolution that require follow-up are set out below in italics and the corresponding responses are in the text boxes.

Point 4: Welcomes the overall prudent and sound financial management of the Ombudsman in the 2016 budget period; expresses support for the successful paradigm shift towards performance-based budgeting in the Commission's budget planning introduced by Vice-President Kristalina Georgieva in September 2015 as part of the "EU Budget Focused on Results" initiative; encourages the Ombudsman to apply that method to its own budget-planning procedure

As acknowledged by the EP in point 5 of its resolution, the Ombudsman's budget is purely administrative. Performance-based budgeting is, strictly speaking, most relevant for, and applicable to, operational and programme-based budgets. Nevertheless, in planning its budgetary needs, the Ombudsman takes account of the results of a number of measurements and statistical data that inform and directly impact the office's work.

These include (i) the results achieved in relation to the key performance indicators adopted by the Ombudsman as part of the Strategy "Towards 2019" to help measure how successful the office is in implementing the strategy; and

¹ http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2018-0131+0+DOC+XML+V0//EN&language=EN#def_2_1



(ii) other casework related information (e.g. evolution of the caseload of complaints and inquiries).

The Ombudsman is therefore committed to ensure that all available funds are spent in a result-oriented manner and aligned with the Ombudsman's high level objectives and priorities as outlined in her strategy.

Point 7. Stresses the pivotal role of the Ombudsman in promoting good governance and ensuring the participation of civil society in the Union; notes that the Ombudsman closed five strategic inquiries and opened four new ones in 2016 on issues related, inter alia, to transparency and conflicts of interest; encourages the Ombudsman to pursue its strategic work with the aim of promoting good governance of the Union institutions

The Ombudsman welcomes this recommendation and is determined to pursue her efforts to promote good governance within the EU institutions.

Point 8. Welcomes the decision to reduce communication and translation costs linked to the production of publications without undermining their quality; notes that the length of the documents was reduced, and is therefore interested to know if the information now excluded from the publications is nevertheless accessible on demand

All information on the Ombudsman's activities and casework, in particular details of inquiries, which were previously published in the Annual Report more extensively, continues to be available on the website. The Ombudsman's new website launched on 23 July 2018 provides a thematic classification of cases, which should make it even easier for citizens and other interested parties to follow her work. Additionally, it seems worth mentioning that a special effort was made to substantially shorten the annual publication for the European Network of Ombudsmen (ENO), which is available in five languages.

Point 10. Notes the results achieved in the complaints handling in 2016 and notes the fact that the Union institutions complied with the Ombudsman's decisions at a rate of 84 % (83 % in 2015); notes that this has been the second highest rate of compliance with the Ombudsman's decisions and recommendations so far; recommends that the Ombudsman keep on working and analysing possible solutions to reach at least the 88 % that was achieved in 2014; notes that the rate of follow-up to critical remarks was of 63 % in 2016 (41 % in 2015); welcomes the Ombudsman's report 'Putting it Right', which provides an analysis of how institutions complied with its recommendations and presents a breakdown per institution;

The Ombudsman will pursue her efforts to encourage, to the maximum extent possible, institutions to comply with her recommendations and suggestions and thus to reach an even higher compliance rate.

Point 13. Reiterates its concern at the "internal revolving door" between the Ombudsman and other institutions, particularly the Commission's directorates which might be under its scrutiny;



As explained in the follow-up report on the 2015 discharge, the Ombudsman has been constantly aware of this issue and has adopted a further guide on ethics and good conduct on 5/07/2017, which deals, among other things with the issue of internal 'revolving doors'. Its section on conflicts of interest provides the following:

"As a rule, staff members may not, during the performance of their duties, deal with any matter in which they have a direct or indirect personal interest that may compromise their independence and, by extension, the Ombudsman's interests.

In addition, staff members should take the initiative of informing their hierarchy immediately of any potential issue giving rise to a conflict of interest. A staff member should thus communicate to the administration any situation where they believe that a conflict of interest, or an appearance of a conflict of interest, has arisen and take measures to avoid such situation occurring in the first place. To implement this proactive approach, for example, a staff member needs to declare all interests when joining the Ombudsman's Office, so as to allow the hierarchy to allocate to the staff member tasks which have no connection with those interests.

In case of doubt, staff members may obtain the advice of someone not directly involved and/or contact the Ethics Officer(s).

Furthermore, in addition to the general obligation under the Staff Regulations, staff members may not, for a period of one year following their recruitment, deal with a complaint or inquiry, or a tender or other procedure, in which they were involved or had a direct or indirect interest in their previous employment. Again, in addition to the general obligation under the Staff Regulations, any incoming staff from other EU institutions, bodies, offices or agencies who draft, or are part of the approval circuit for inquiries, must not, for one year, deal with cases involving their former DG, department, division or equivalent. This 'cooling off period' on cases is two years for senior staff (i.e. Directors, Secretary-General, and Head of Cabinet)."

Additionally, in case of outgoing staff transferred to other institutions, appropriate measures are taken to ensure that, during the remainder of their time in the Ombudsman's office, they are not assigned or involved in matters that are likely to concern their upcoming functions.

Point 14. Notes that some of the targets set by the Ombudsman to assess its performance through key performance indicators were not reached² ; asks the Ombudsman to identify the measures taken to enhance its results;

² The impact of compliance; the visibility through visits to the website and use of the interactive guide to contact a member of the ENO; and the proportion of cases in which the admissibility decision is taken in one month - did not reach the target objective established by the Ombudsman.



The Ombudsman has established key performance indicators (KPIs) and ambitious targets for measuring its relevance, impact, visibility and efficiency. As part of the Annual Management Process, the KPI targets are reviewed, and where necessary, revised, on the basis of experience.

The measures taken by the Ombudsman to enhance the results include continuous review and streamlining of processes and monitoring of our work (results are reviewed based on periodical reports and monthly statistics in relation to the casework and quarterly scoreboards for all other KPI targets). Some of the KPI results can be directly influenced by the Ombudsman's efficiency actions while others are essentially dependent on external factors over which the Ombudsman only has limited control.

As a result, in 2017, the KPI result for overall compliance (4a) did not reach the ambitious target of 90% but, at 85%, was up two points from the previous year. KPI 5a (number of media articles) did not reach the target. This figure is difficult to predict or influence because it depends on the type of cases the Ombudsman deals with and the media attention they attract (for ex. in 2016, a case about the former Commission president drew a lot of media attention - 2300 articles on that case alone).

KPI 5b (engagement on twitter) - target exceeded

KPI 6a (visitors to the website) and 6b (advice to contact a member of the ENO) both results exceeded the target.

KPI 7a (proportion of cases in which the admissibility decision is taken in one month): This efficiency indicator is being monitored very closely. With a result of 86% in 2017 (up from 69% in the previous year), considerable progress was made towards reaching the target.

Point 15. Welcomes the gender balance at management level and within administrators; encourages the Ombudsman to maintain this trend;

The Ombudsman welcomes the recommendation, which does not require any specific action at present.

Point 16. Notes the persisting geographical imbalance at management level; notes that two of the three managers from the Ombudsman's Member State occupied managerial positions in the Office for many years before the election of the present Ombudsman and are officials, whereas the third joined as a head of Cabinet at the beginning of the present's Ombudsman's term of office; acknowledges that it is therefore difficult to change the situation in the short-term, but encourages the Ombudsman to strive for geographical balance in management positions in the long-term.



The Ombudsman takes note of the recommendation.

Point 20. Notes that there is still one ongoing complaint made to the European Data Protection Supervisor (EDPS) concerning the Ombudsman in 2016; notes that the Ombudsman's Office is, in close cooperation with the EDPS, reviewing the Office's procedure for handling personal data of third parties in complaints and inquiries; asks the Ombudsman's Office to keep Parliament's Committee on Budgetary Control informed about the outcome of the review;

Following a formal consultation, the EDPS was satisfied with the review and the implementation of the recommendations and closed the case in question in January 2018.

Point 22. Expresses the need to establish an independent disclosure, advice and referral body with sufficient budgetary resources, in order to help whistleblowers use the right channels to disclose their information on possible irregularities affecting the financial interests of the Union, while protecting their confidentiality and offering needed support and advice.

The Ombudsman is aware of the ongoing legislative procedure regarding the matter and remains at Parliament's disposal to share expertise and good practices, if needed.

Point 23. Notes that the Ombudsman has provided timely follow-up to the 2015 discharge i.e., before 30 June 2018, in its report to Parliament's Committee on Budgetary Control, in compliance with Article 166 of the Financial Regulation; regrets, however, the lack of data from 2016 in different sections of the Ombudsman's annual activity report for 2016;

The Ombudsman is not sure what the date of 30 June 2018 refers to (the follow-up report was sent to the CONT rapporteur on 29/9/2017). In relation to the 'lack of data' in the 2016 AAR, the Ombudsman understands this to concern (i) the information on how the EU institutions responded to the Ombudsman's recommendations and suggestions in 2016 and (ii) the Ombudsman's follow-up to the recommendations made in the context of the 2015 discharge.

In relation to (i), it should be noted that the "Putting it Right report", which provides this information is always drawn up at the end of the year that follows that of the decisions in question. This is because the Ombudsman can obviously request follow-up from institutions only *after* a case is closed with the relevant suggestions and/or recommendations. The institutions' responses to decisions made in a given year can therefore only be analysed the following year. The "Putting it Right Report" drawn up in late 2016 and annexed to the AAR for 2016 thus necessarily relates to follow-up to Ombudsman decisions made in 2015. The "Putting it Right Report", which deals with the follow-up to



decisions closed in 2016 was drawn up in December 2017 and annexed to the AAR for 2017.

In relation to (ii), as indicated in the AAR, this information was not available at the time of drafting and adopting the AAR for 2016 but was subsequently sent to CONT in the Ombudsman's follow-up report to the discharge decision.

24. Regrets the decision of the United Kingdom to withdraw from the European Union; observes that at this point no predictions can be made about the financial, administrative, human and other consequences related to this withdrawal; asks the Ombudsman and the Court to perform impact assessments and inform Parliament of the results by the end of the year 2018

The EO has assessed the impact of Brexit on its internal functioning (administration, staff and finances) in terms of the consequence on its workload, i.e. the likely increase or decrease of the number of complaints and inquiries due to the withdrawal of the UK from the EU.

In relation thereto, it should be noted that, in 2017, the Ombudsman received 122 complaints from the UK (5.5% of all complaints received) and opened 19 inquiries (4.4% of all inquiries opened in 2017). These figures cannot however directly be translated into a corresponding foreseeable reduction of the Ombudsman's post-Brexit workload because EU citizens who reside in the UK will continue to have the right to complain to the Ombudsman as will UK citizens residing in one of the Member States.

The Ombudsman expects a likely increase of complaints from EU citizens or other EU-based entities on issues such as staff matters, grants and contracts affected by Brexit in one way or another.

It is recalled that, in 2017, the Ombudsman started a Strategic Initiative into the transparency of the Brexit negotiation process. Furthermore, she received several Brexit related complaints, mostly about access to documents. She will keep monitoring the complaints she receives and inquiries she conducts in relation to this matter and report back in the 2018 Annual Report.

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