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*Plenary sitting*

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**A8-0411/2018**

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# **REPORT**

on the annual report on the activities of the European Ombudsman in 2017  
(2018/2105(INI))

Committee on Petitions

Rapporteur: Eleonora Evi

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the annual report on the activities of the European Ombudsman in 2017 (2018/2105(INI))

*The European Parliament,*

- having regard to the annual report on the European Ombudsman’s activities in 2017,
  - having regard to Articles 9, 11, 15, 24 and 228 of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to Articles 11, 35, 37, 41, 42 and 43 of the Charter of Fundamental Rights of the European Union,
  - having regard to Protocol No 1 to the Treaties on the role of National Parliaments in the European Union,
  - having regard to Protocol No 2 to the Treaties on the application of the principles of subsidiarity and proportionality,
  - having regard to the UN Convention on the Rights of Persons with Disabilities (UN CRPD),
  - 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, as adopted by Parliament on 6 September 2001,
  - having regard to the Framework Agreement on Cooperation concluded between Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
  - having regard to its previous resolutions on the European Ombudsman’s activities,
  - having regard to Rules 52 and 220(1) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A8-0411/2018),
- A. whereas the annual report on the activities of the European Ombudsman in 2017 was formally submitted to the President of Parliament on 22 May 2018 and the Ombudsman, Emily O’Reilly, presented it to the Committee on Petitions in Brussels on 16 May 2018;
- 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

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

of the European Union acting in its judicial role;

- C. whereas Article 10(3) of the Treaty on European Union (TEU) establishes that ‘every citizen shall have the right to participate in the democratic life of the Union’ and that ‘decisions shall be taken as openly and as closely as possible to the citizen’;
- D. whereas Article 15 TFEU states that ‘in order to promote good governance and ensure the participation of civil society, the Union’s institutions, bodies, offices and agencies shall conduct their work as openly as possible’ and that ‘any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union’s institutions, bodies, offices and agencies’;
- E. whereas Article 41 of the Charter of Fundamental Rights, concerning the right to good administration, states inter alia that ‘every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union’;
- F. whereas Article 43 of the Charter states that ‘any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the European Ombudsman cases of maladministration in the activities of the institutions, bodies, offices or agencies of the Union, with the exception of the Court of Justice of the European Union acting in its judicial role’;
- G. whereas Article 298(1) TFEU establishes that ‘in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration’;
- H. whereas in 2017 the Ombudsman opened 447 inquiries, of which 433 were complaint-based and 14 own-initiative, while closing 363 inquiries (348 complaint-based and 15 own-initiative); whereas most of the inquiries concerned the Commission (256 inquiries or 57.3 %), followed by the EU agencies (35 inquiries or 7.8 %), the European Personnel Selection Office (EPSO) (34 inquiries or 7.6 %), Parliament (22 inquiries or 4.9 %), the European External Action Service (EEAS) (17 inquiries or 3.8 %), the European Anti-Fraud Office (OLAF) (16 inquiries or 3.6 %) and other institutions (67 inquiries or 15 %);
- I. whereas the top three concerns in the inquiries closed by the Ombudsman in 2017 were: transparency, accountability and public access to information and documents (20.6 %); culture of service (16.8 %) and respect for procedural rights (16.5 %); whereas other concerns included ethical issues, public participation in EU decision-rights, the proper use of discretion, including in infringement procedures, sound financial management of EU tenders, grants and contracts, recruitment, and good management of EU personnel issues;
- J. whereas in its strategic work in 2017, the Ombudsman’s office closed four strategic inquiries and opened four new ones on Council transparency; on the ‘revolving doors’ issue concerning former European Commissioners; on the accessibility of Commission websites for persons with disabilities and on pre-submission activities linked to medicine assessments by the European Medicines Agency (EMA); whereas in 2017 the

Ombudsman opened eight strategic initiatives on, among other subjects, European Council lobbying transparency, improving the European Citizens' Initiative (ECI), and revolving doors rules at various EU institutions and bodies, and closed six strategic initiatives;

- K. whereas the EU is still facing the worst economic, social and political crisis since its foundation; whereas the ineffective approach adopted by the EU Institutions in tackling the lack of transparency in both the EU decision-making process and in lobbying activities, in addition to other significant ethical issues within the Institutions, are contributing to further undermining the image of the EU;
- L. whereas the refusal of access to EU documents and related transparency issues continued to account for the greatest proportion of European Ombudsman inquiries in 2017;
- M. whereas given the often time-sensitive nature of requests for access to documents, the Ombudsman initiated a trial phase for a fast-track procedure;
- N. whereas the Ombudsman has a crucial role to play with regard to ensuring the accountability of the EU institutions and the maximum transparency and impartiality of the EU administration and decision-making processes in order to successfully protect citizens' rights, thereby increasing their trust, engagement and participation in the democratic life of the Union;
- O. whereas the Court of Justice has stipulated that the principles of publicity and transparency are inherent to the EU legislative process, and that the effectiveness and integrity of the legislative process cannot undermine the principles of publicity and transparency which underlie that process; whereas the Court of Justice has given clear guidance on this issue, such as in its judgement of 22 March 2018 on case T-540/15;
- P. whereas the Ombudsman conducted a year-long complaint-based inquiry into the ECB President's membership of the Group of 30 (G30), a private organisation whose members include representatives of banks supervised either directly or indirectly by the ECB; whereas the Ombudsman recommended that the ECB President suspend his membership of the G30;
- Q. whereas the Ombudsman inquired into complaints on the Commission's handling of the post-mandate employment of its former Commissioners; whereas the Ombudsman had already found that the Commission's failure to take a specific decision in the case of former Commission President Barroso constituted maladministration; whereas on the Barroso case, the Ethics Committee concluded that there were not sufficient grounds to establish a violation of the legal obligations, having taken into account the former President's written statement that he had not been engaged to lobby on behalf of Goldman Sachs and that he did not intend to do so;
- R. whereas the financial crisis has brought about an economic and social crisis, casting doubt on the European Institutions;
- S. whereas on 25 October 2017 a meeting took place between former Commission President Barroso and a current Commission Vice-President, which was registered as an

official meeting with Goldman Sachs; whereas the Ombudsman noted that the exact nature of this meeting was not clear; whereas the Ombudsman highlighted that there are understandable concerns that the former President is using his previous status and his contacts with former colleagues to influence and obtain information; whereas this case raises systematic issues as to the Commission's overall approach to handling such cases and the degree of independence of the Ethics Committee; points out the need, therefore, for stronger rules at EU level to prevent and sanction all conflicts of interests in the Institutions and agencies of the EU;

- T. whereas in March 2017 the Ombudsman opened a strategic inquiry into the openness and accountability of the Council; whereas the Ombudsman found maladministration in the Council's failure to record the identities of Member States that take a position in a legislative procedure and in the lack of transparency by the Council on public access to its legislative documents, such as the practice of disproportionately marking documents as 'LIMITE', i.e. not for circulation; whereas the Ombudsman submitted a special report to Parliament on her strategic inquiry on the accountability and transparency of the Council's legislative work on 17 May 2018;
- U. whereas greater openness on the positions taken by national governments may serve to alleviate the 'blame Brussels' phenomenon, which distorts the reality of how EU legislation is agreed, fomenting Euro-scepticism and anti-EU sentiment;
- V. whereas the Ombudsman inquired into the non-compliance with EU and international rules of the EIB's transparency policy on access to documents;
- W. whereas the adequate prevention of conflicts of interest within the EU Institutions, agencies and bodies is an essential part of guaranteeing good administration and increasing citizens' trust in the EU decision-making process; whereas the Ombudsman launched a strategic inquiry into how the Commission carries out conflict of interest assessments for its special advisers, who often simultaneously work for the private sector;
- X. whereas the Ombudsman inquired into citizens' complaints denouncing the Commission's failure to reach a timely decision on infringement cases concerning the abuse of fixed-term work contracts; whereas several Member States have, over the years, experienced a significant increase in atypical and temporary employment contracts, which has called into question the implementation of European employment law and the jurisprudence of the Court of Justice;
- Y. whereas for the purposes of decisions relating to the protection of human health and the safety of humans, animals and plants, the EU institutions, agencies and offices should be especially focused on citizens and service-minded in their outlook, and should properly address the public's concerns regarding full transparency, independence and accuracy in the collection and evaluation of scientific evidence; whereas the scientific evidence and procedures used at EU level which led to the authorisations of, inter alia, genetically modified organisms, pesticides and glyphosate drew significant criticism and triggered a wide public debate;
- Z. whereas the Commission has yet to implement the Ombudsman's recommendations concerning its dealings with the tobacco industry, and is thus failing to ensure full

transparency in line with its obligations under the WHO Framework Convention on Tobacco Control (WHO FCTC);

- AA. whereas the Ombudsman published clear and practical recommendations for how public officials should interact with lobbyists, and made efforts to increase awareness of these within the Council and the Commission;
  - AB. whereas the Ombudsman is part of the EU framework under the UN CPRD tasked with protecting, promoting and monitoring the implementation of the Convention at the level of the EU institutions;
  - AC. whereas the Ombudsman conducted an inquiry into how Martin Selmayr, the then Head of Cabinet of the President of the Commission, was appointed Secretary-General of the Commission; whereas the Ombudsman highlighted that the Commission created an artificial sense of urgency to fill the post of Secretary-General in order to justify not publishing a vacancy notice, and organised a selection procedure for Deputy Secretary-General not to fill that role directly, but to make Mr Selmayr Secretary-General in a rapid two-step appointment; whereas the Ombudsman found four instances of maladministration in Mr Selmayr's appointment due to the Commission's failure to follow the relevant rules correctly, both in letter and spirit;
  - AD. whereas the work of the European Ombudsman perfectly complements the work of the her national and regional counterparts; whereas the exchange and coordination of their work within the European Network of Ombudsmen, under the auspices of the European Ombudsman, is a very positive part of efforts to ensure that all EU citizens and residents enjoy the right to good administration at all levels;
  - AE. whereas the current statute of the European Ombudsman was most recently updated before the Lisbon Treaty entered into force; whereas since then, new expectations have emerged among EU citizens on good administration and the role played by the Ombudsman in securing it, particularly as regards access to documents, whistleblowing and harassment, and in ensuring that the Commission handles the admissibility of European Citizens' Initiatives fairly and impartially;
1. Approves the annual report for 2017 presented by the European Ombudsman; takes note of its clear and easy-to-read style of presentation, highlighting as it does the most important facts and figures concerning the work of the Ombudsman in 2017;
  2. Congratulates Emily O'Reilly for her excellent work and constructive efforts to improve the quality of the EU's administration and the accessibility and quality of the services it offers to citizens; reaffirms its strong support for the actions carried out by the Ombudsman for citizens and European democracy;
  3. Welcomes the Ombudsman's five-year strategy 'Towards 2019', which aims to increase the impact and visibility of her office and forge strong relationships with the EU institutions, agencies and organisations, for the greater benefit of citizens;
  4. Notes with great concern that inquiries relating to transparency and accountability, including on access to information and documents, continued to account for the greatest proportion of cases handled by the Ombudsman in 2017, followed by complaints

relating to EU agencies and other bodies;

5. Welcomes the Ombudsman's efforts to present the staff of the EU Institutions with the Award for Good Administration 2017, in particular that for the Commission's DG Health for their efforts on behalf of patients with rare diseases;
6. Emphasises the importance of maximum transparency and improved public access to the documents held by the EU institutions; highlights the Ombudsman's structural work in bringing instances of maladministration to light by adopting a case-by-case approach and launching an increasing number of own-initiative enquiries;
7. Is grateful for the good cooperation of the Ombudsman and her team with the Committee on Petitions, which has been characterised by esteem and attention to detail;
8. Underlines the fact that EU legislation on access to documents should be updated; reiterates its call for Regulation (EC) No 1049/2001 to be revised in order to also facilitate the Ombudsman's work in scrutinising the granting of access to documents by Parliament, the Council and the Commission; welcomes the Ombudsman's introduction of the fast-track complaint procedure to deal with inquiries on access to documents;
9. Emphasises that citizens must be able to participate more directly in the democratic life of the EU and follow the decision-making process at the EU Institutions in detail, and have access to all the relevant information in order to fully exercise their democratic rights;
10. Stresses the role of the Ombudsman in working for greater transparency and accountability in the EU legislative process in order to increase citizens' trust, with regard not only to the lawfulness of an isolated act, but also to the legitimacy of the decision-making process as a whole;
11. Calls for a review of the Council's internal guidelines on LIMITE documents, which have no solid legal basis, in order to uphold the principle according to which LIMITE status can only be given to a preliminary draft that does not yet have an author and has no bearing on the legislative procedure;
12. Recognises the need for maximum transparency in the EU decision-making process and commends the Ombudsman's inquiry into the usual practice of informal negotiations between the three main EU institutions (trilogues); supports the publication of all trilogue documents in accordance with the rulings of the Court of Justice;
13. Strongly believes that the Ombudsman's recommendations on the EIB's Transparency Policy must be implemented without further delay; calls on the EIB to immediately start to remove the presumption of non-disclosure relating to the information and documents collected during audits, inspections and investigations, including those launched both during and after fraud and corruption cases;
14. Calls for the EIB Group's disclosure policy to ensure an increasingly high level of transparency as regards the principles governing its pricing policy and governance bodies; calls for the minutes of the EIB Group's management committee meetings to be published;

15. Stresses that the positions of the Member States within the Council during the EU legislative process must be recorded and made a matter of public knowledge in a timely and accessible manner, as in any system rooted in the principle of democratic legitimacy, co-legislators must be held accountable to the public for their actions; believes that increased accountability in the Council on positions taken by national governments on EU legislation, including making legislative documents proactively accessible to the public while the legislative process is ongoing, would help to address the lack of transparency in decision making and alleviate the ‘blame Brussels’ culture for decisions ultimately taken by national governments themselves; demands that the Council, in accordance with Article 15(3) TFEU, revise its confidentiality policy in order to ensure the highest level of transparency in its work;
16. Calls on the Commission to ensure maximum transparency and access to documents and information with regard to the EU Pilot procedures, at least in relation to petitions received, and full transparency and full access to the EU Pilot and infringement procedures that have already ended;
17. Urges the Ombudsman to continue to monitor the implementation of the Commission’s reform of the expert groups’ system in order to ensure full compliance with legally binding rules and maximum transparency in the performance of all expert groups’ activities, and to investigate and report any possible conflict of interests; believes that a careful assessment of and information on all expert groups is needed in order to understand their degree of independence, with a view to serving the public interest and delivering added value in EU policymaking; believes that all members of expert groups must be on the transparency register;
18. Reiterates its call for a central transparency hub for all EU institutions and agencies;
19. Supports the Ombudsman’s commitment to improving the transparency of EU lobbying; stresses the importance of adopting an appropriate legislative act to make the EU transparency register mandatory and legally binding for all EU institutions and agencies and interest representatives, thereby ensuring full transparency of lobbying;
20. Stresses the importance of regularly updating and greatly improving the accuracy of data on the EU transparency register, including the obligation for law firms that lobby to declare all their clients; underlines the need to make available all information on the influence of lobbyists free of charge, fully comprehensible and easily accessible to the public; believes that full transparency of the funding of all interest representatives must be ensured; calls for any organisation that breaks the revolving doors rules to be suspended from the transparency register;
21. Highlights the Ombudsman’s findings that the ECB President’s continued membership of the G30 constituted maladministration as it gave rise to a public perception that the ECB’s independence from private financial interests could be compromised; stresses that the ECB’s executive board members should refrain from also being members of fora or other organisations which include executives from banks supervised by the ECB; takes note of the Ombudsman’s recommendations of 15 January 2018 on the involvement of the ECB’s President and members of its decision-making bodies in the G30 and urges the ECB to amend the relevant rules in order to ensure that the highest

ethical and accountability standards are implemented in practice;

22. Believes that the Commission failed to respect the principles of transparency, ethics and the rule of law in the procedure it used to appoint Martin Selmayr as its new Secretary-General; strongly regrets the Commission's decision to confirm Mr Selmayr as its new Secretary-General, disregarding the extensive and widespread criticism from EU citizens and the reputational damage caused to the EU as a whole; emphasises that Mr Selmayr must resign as Secretary-General and calls on the Commission to adopt a new procedure for appointing its Secretary-General, ensuring that the highest standards of transparency, ethics and the rule of law are upheld;
23. Calls on the Ombudsman to continue her work on strengthening ethics rules within the EU Institutions in order to solve revolving door issues and to guarantee full transparency on all information relating to such cases, including the swift publication of the names of all those EU senior officials involved; looks forward to the Ombudsman's analysis into how the Commission is implementing her guidelines and suggestions on how to improve the handling of revolving doors situations, including the possibility of adopting legislative rules for preventing and sanctioning such situations and possible abuses;
24. Strongly believes that stricter, clear and easily applicable moral and ethical rules and standards need to be swiftly applied throughout the EU institutions, agencies and bodies, with a view to securing respect for the duty of integrity and discretion, and to preventing conflict of interests with the private sector; considers that these rules and standards must be based on a legislative act; takes note of the updated code of conduct for Commissioners, which entered into force in February 2018 and introduced stricter cooling-off periods; considers, however, that post-term-of-office notification periods should be increased;
25. Stresses the urgent need for the existing Code of Good Administrative Behaviour to be upgraded effectively, by adopting a binding regulation on the matter;
26. Believes that the meeting between former Commission President Barroso and a current Commission Vice-President, which was registered as an official meeting with Goldman Sachs, further demonstrated the urgent need to revise the current rules and practices in order to strengthen integrity requirements for Commissioners both during and after their mandates;
27. Reiterates its call on the Commission to guarantee proactive publication and full transparency with regard to the post-term-of-office occupations of former Commissioners; calls on the Commission to ensure that the Ethics Committee is fully independent and accountable and encourages the Ombudsman to continue to assess and report on any possible conflict of interest of the Ethics Committee's members;
28. Congratulates the Ombudsman on her strategic inquiry on the transparency of the Council legislative process (OI/2/2017/TE), but regrets the Council's failure to reply to the findings within the deadline; notes that this is, regrettably, a recurring topic that is constantly reflected in complaints submitted to the Ombudsman; believes, moreover, that it should be deemed of great importance for the democratic life of the Union and the effective participation of citizens across the continent, as it is hindering the

fulfilment of the constitutional treaties and the Charter of Fundamental Rights; notes, in this connection, the Ombudsman's findings in a recent case (1272/2017/LP – the Council's refusal to give public access to the opinion of its Legal Service concerning an interinstitutional agreement on a Transparency Register), which suggested that the issue is threatening the principle of institutional balance and contravenes the essential practice of mutual sincere cooperation; points out that it is impossible to carry out ex-post checks on an ad hoc basis after a request is refused;

29. Highlights the need to adopt major improvements on conflict of interest rules for special advisers; specifically calls on the Commission to fully implement the Ombudsman's recommendations in this regard, by adopting maximum transparency and a proactive approach to its assessment of any potential conflict of interests before and after the appointment of special advisers, and to ensure that citizens have complete access to all the relevant information;
30. Applauds the Ombudsman's constant interest in issues pertinent to the staff of the institutions and highlights the importance of diminishing any kind of discrimination that might arise from differentiated status; reiterates the significance of the Ombudsman's findings on unpaid traineeships in EU delegations of the European External Actions Service (EEAS) (case 454/2014/PMC) and the recommendation that the EEAS should pay its trainees an appropriate allowance in accordance with the principle of non-discrimination; deplores the fact that other EU Institutions follow the same malpractice of unpaid traineeships, which does not afford fair opportunities to young people or offer work equal to that of an employee, leaving young professionals excluded from a lack of sufficient funds with which to sustain themselves and inadequately remunerated for their services; points out that shortcomings in the status of trainees are witnessed in other areas, such as a lack of mechanisms for reporting sexual harassment in agencies of the Union; calls on the Ombudsman, therefore, to open a general strategic inquiry on the status of trainees;
31. Urges the Commission to make its work fully transparent by publishing data online on all its meetings with tobacco lobbyists or their legal representatives and all minutes thereof, in line with its obligations under the WHO FCTC;
32. Urges the Ombudsman to monitor the implementation of the recommendations for EU public officials on their interactions with interest representatives, and to continue to raise awareness of these recommendations among EU staff members throughout all the EU Institutions, through educational training, seminars and related support measures;
33. Deeply regrets the delays accumulated by the Commission in connection with infringement procedures on the abuse of fixed-term contracts in both the private and public sectors, which has allowed for the abuse and violation of workers' rights in the Member States; calls on the Ombudsman to monitor this issue in order to safeguard citizens' rights effectively;
34. Supports the Ombudsman's role in shaping a proactive and transparent policy in all EU agencies; urges the Ombudsman to continue monitoring all EU agencies in order to ensure that they meet the highest standards of transparency and provide public access to documents and information, with a particular focus on procedures and activities relating

to the protection of human health;

35. Urges the Ombudsman to launch a strategic inquiry in order to assess whether EU Institutions, offices and agencies, such as the European Chemicals Agency (ECHA), the European Food Safety Authority (EFSA) and the EMA, ensure that the collection, examination and publication of scientific evidence is fully independent, transparent, impartial, accurate and free from conflict of interests, and whether the proper policies and procedural safeguards are in place, notably when dealing with GMOs, glyphosate, pesticides, phytosanitary and biocidal products and medicines; suggests, in this regard, a further inquiry into the composition and selection procedures of the scientific committees and panels of these agencies, in order to ensure that they are completely independent and to put into place the most stringent mechanisms preventing any possible conflict of interests;
36. Welcomes the Ombudsman's strategic inquiries into the treatment of persons with disabilities under the Commission's Joint Sickness Insurance Scheme and on the accessibility of the Commission's web pages and online tools for persons with disabilities; encourages the Ombudsman to do her utmost with a view to ensuring the full and consistent implementation of the UN CRPD by the EU administration;
37. Welcomes the Ombudsman's commitment to openness and transparency throughout the Brexit negotiations; underlines the positive response received by the Ombudsman from both the Council and the Commission recognising the importance of transparency; calls on the UK Government to match this commitment;
38. Encourages the Ombudsman to continue her collaboration with national ombudsmen through the European Network of Ombudsmen;
39. Calls on the European Network of National Ombudsmen to show greater vigilance in monitoring that public authorities act immediately on cases of police brutality, racism and anti-Semitism in respect of human rights and democratic governance;
40. Calls for greater financial and human resources to be allocated to the office of the Ombudsman so that it may cope with the current and future workload, with a view to upholding its crucial duty of enhancing good administrative practices within the EU, a service of vital importance to the citizens of the Union;
41. Welcomes the annual conference of the European Network of Ombudsmen of June 2017, which was dedicated to the fallout for citizens' rights from Brexit and from increased populism in Europe;
42. Welcomes the Ombudsman's Award for Good Administration, which recognises the efforts of the EU civil service to find innovative ways of implementing citizen-friendly policies;
43. Reiterates its willingness to update the statute of the European Ombudsman<sup>1</sup>, and any

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<sup>1</sup> Draft Decision of the European Parliament adopted on 22 April 2008 amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (OJ C 259 E, 29.10.2009, p. 116).

related tranche of the *acquis* in order to tailor its role to EU citizens' current needs and expectations regarding good administration;

44. Stresses the need to improve social dialogue;
45. Stresses that trust between citizens and the institutions is of paramount importance in the light of the current economic difficulties;
46. Stresses the need for the Ombudsman to investigate the conflict of interest between the Commission's role in the Troika and its responsibility as guardian of the Treaties and the *acquis*;
47. Calls on the Ombudsman to ensure that the Commission will help to create an infrastructure for the ECI, providing legal advice and a legal framework that protects its members;
48. 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.

## EXPLANATORY STATEMENT

The annual report on the activities of the European Ombudsman in 2017 was formally submitted to the President of the European Parliament on 22 May 2018 and the Ombudsman, Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 16 May 2018.

The Ombudsman's mandate is enshrined in art. 24 and 228 of the Treaty of the Functioning of the European Union (TFEU).

Article 24 of the TFEU, as well as Article 43 of the EU Charter of Fundamental Rights, establish the right to complain to the European Ombudsman.

According to art. 228 TFEU the European Ombudsman, elected by the European Parliament, is empowered to receive complaints from any citizen of the Union, or any natural or legal person residing or having its registered office in a Member State, 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.

Maladministration means poor or failed administration. This occurs if an institution fails to act in accordance with the law, fails to respect the principles of good administration or violates human rights.

A key aspect of the current version of the Treaties, strictly related to the Ombudsman's activities, is included in article 15 of the TFEU. Indeed, art. 15 TFEU establishes that the Union's institutions, bodies, offices and agencies must conduct their work as openly as possible in order to promote good governance and ensure the participation of civil society. Furthermore it also foresees that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, must have a right of access to documents of the Union's institutions, bodies, offices and agencies.

An additional cornerstone, particularly bound to the Ombudsman's role, is article 41(1) of the EU Charter of Fundamental Rights where it is underlined 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'.

In 2017, 15837 citizens called on the Ombudsman's services for help, of whom 12521 were given advice through the Interactive Guide on the Ombudsman's website, while of the remaining requests 1135 were forwarded elsewhere for information and 2 181 were handled by the Ombudsman as complaints.

Out of the total number of 2181 complaints processed by the Ombudsman in 2017, 751 fell within the Ombudsman's mandate and 1430 fell outside the scope of the Ombudsman's mandate.

In 2017, the Ombudsman opened 447 inquiries, of which 433 were complaint-based and 14 were own-initiative inquiries, while closing 363 inquiries (348 complaint-based and 15 own-initiative inquiries). Most of the inquiries concerned the Commission (256 inquiries or 57.3 %), followed by the EU agencies (35 inquiries or 7.8 %), the European Personnel Selection Office (EPSO) (34 inquiries or 7.6 %), the European Parliament (22 inquiries or 4.9 %), the European External Action Service (EEAS) (17 inquiries or 3.8 %), the European Anti-Fraud Office

(OLAF) (16 inquiries or 3.6 %) and other institutions (67 inquiries or 15.0%).

The Ombudsman's top three concerns in the inquiries closed in 2017 were: transparency, accountability and public access to information and documents (20.6 %), culture of service (16.8 %) and respect for procedural rights (16.5 %). Other concerns include ethical issues, public participation in EU decision-making, respect for fundamental rights, proper use of discretion including in infringement procedures, sound financial management of EU tenders, grants and contracts, recruitment and good management of EU personnel issues.

The Rapporteur appreciates that the strategy implemented by the Ombudsman, aimed at increasing visibility of her office, resulted in an increased overall number of complains handled in 2017, from 1880 to 2184, as well as in the increased number of complaints received that are within the Ombudsman's mandate, from 711 to 751.

In its strategic work in 2017, the Ombudsman's office closed 4 strategic inquiries and opened 4 new ones on Council transparency; "revolving doors" with former European Commissioners; accessibility of the Commission websites for persons with disabilities and pre-submission activities linked to medicine assessments by the EMA. The Ombudsman opened also 8 strategic initiatives on, among other subjects, European Council lobbying transparency, improving the ECI; "revolving doors" rules at various EU institutions and bodies, and closed 6 strategic initiatives.

The Rapporteur notes with concern that transparency and accountability related inquiries, including inquiries related to access to information and documents, continue to account for the greatest proportion of cases handled by the Ombudsman in 2017.

The Rapporteur underlines that the EU is still facing the worst economic, social and political crisis since its foundation. All Institutions, agencies and offices of the EU should feel compelled to ensure full transparency and the highest ethical and accountability standards.

According to the Rapporteur, unfortunately the ineffective approach adopted hitherto by the EU Institutions in tackling lack of transparency in both the EU decision-making process and in the lobbying activities as well as other significant ethical issues within the Institutions are contributing to further undermining the image of the EU, increasing citizens' disappointment and discontent.

In this regard, the Rapporteur reminds that the EU is still failing to adopt a mandatory and legally-binding EU Transparency register in order to ensure full lobbying transparency for all EU Institutions and agencies and third parties. In addition, the Rapporteur underlines that EU legislation on access to documents is seriously outdated. Regulation (EC) n. 1049/2001, in fact, no longer reflects the current legal situation and institutional practices implemented by EU institutions, offices, bodies and agencies.

She also believes that it is worth to mention two of the most prominent ethical issues occurred in 2017.

The first is the meeting held on 25 October 2017 between the former Commission President Barroso and a current Commission Vice President, registered as an official meeting with Goldman Sachs, on which the Ombudsman highlighted that its exact nature was not clear and that there are understandable concerns that the former President is using his previous status and

his contacts with former colleagues to influence and obtain information.

The second is the ECB President continued membership of the Group of 30 (G30), a private organisation whose members include representatives of banks either directly or indirectly supervised by the ECB, despite the Ombudsman's recommendation to suspend his membership.

The Rapporteur stresses that both the 'Barroso case' and the ECB President continued membership of the G30 further demonstrated the urgent need to apply stricter moral and ethical rules and standards throughout the EU institutions with a view to securing the respect of the duty of integrity and discretion as well as full independence from private sector.

The Rapporteur would also like to recall maladministration cases found by the Ombudsman in the Council's failure to record the identities of Member States that take a position in a legislative procedure and in the lack of transparency by the Council on public access to its legislative documents.

The Rapporteur reminds that the Court of Justice of the EU (CJEU) stipulated that principles of publicity and transparency are inherent to the EU legislative process and that citizens must follow in detail the decision-making process within the EU institutions and have access to all relevant information in order to fully exercise their democratic rights.

Therefore, the Rapporteur underlines the need for full transparency of the EU decision-making process, as in a system based on the principle of democratic legitimacy all Institutions must be held fully accountable for their actions to the public.

The Rapporteur believes that the Ombudsman has a crucial role to ensure full transparency and impartiality of decision-making processes and of the EU administration in order to successfully protect citizens' rights and commends the Ombudsman's inquiry into informal negotiations between the three main EU institutions ('trilogues').

Over the course of 2017, in a specific case the Ombudsman highlighted that she may seek to assess whether scientific bodies of the EU have the necessary procedural safeguards in place to ensure that the scientific advices provided are as complete as possible and independent and whether these safeguards have been properly applied in any given procedure.

In this regard, the Rapporteur recalls that the scientific evidence and procedures used at EU level, which led to authorisations of, inter alia, genetically modified organisms, pesticides and glyphosate, raised significant criticism and a wide public debate. Therefore, the Rapporteur calls on the Ombudsman to launch a strategic inquiry in order to assess whether EU Institutions, offices and agencies, such as ECHA, EFSA and EMA, ensure that the collection and examination of scientific evidence are fully independent, transparent, accurate and conflict of interest free, and whether proper policies and procedural safeguards are in place.

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	21.11.2018
<b>Result of final vote</b>	+: 26 -: 0 0: 0
<b>Members present for the final vote</b>	Margrete Auken, Beatriz Becerra Basterrechea, Andrea Cozzolino, Pál Csáky, Miriam Dalli, Rosa Estaràs Ferragut, Eleonora Evi, Takis Hadjigeorgiou, Peter Jahr, Rikke-Louise Karlsson, Svetoslav Hristov Malinov, Lukas Mandl, Notis Marias, Ana Miranda, Miroslavs Mitrofanovs, Gabriele Preuß, Eleni Theoharous, Cecilia Wikström
<b>Substitutes present for the final vote</b>	Rosa D'Amato, Urszula Krupa, Kostadinka Kuneva, Julia Pitera, Ángela Vallina
<b>Substitutes under Rule 200(2) present for the final vote</b>	Asim Ademov, Adam Szejnfeld, Mihai Țurcanu

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

26	+
ALDE	Beatriz Becerra Basterrechea, Cecilia Wikström
ECR	Urszula Krupa, Notis Marias, Eleni Theoharous
EFDD	Rosa D'Amato, Eleonora Evi
GUE/NGL	Takis Hadjigeorgiou, Kostadinka Kuneva, Ángela Vallina
NI	Rikke-Louise Karlsson
PPE	Asim Ademov, Pál Csáky, Rosa Estaràs Ferragut, Peter Jahr, Svetoslav Hristov
S&D	Malinov, Lukas Mandl, Julia Pitera, Adam Szejnfeld, Mihai Țurcanu
Verts/ALE	Andrea Cozzolino, Miriam Dalli, Gabriele Preuß Margrete Auken, Ana Miranda, Miroslavs Mitrofanovs

0	-
	0

0	0

**Key to symbols:**

+ : in favour

- : against

0 : abstention