

# EUROPEAN PARLIAMENT

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*Committee on Petitions*

**2006/2223(INI)**

8.1.2008

## **OPINION**

of the Committee on Petitions

for the Committee on Constitutional Affairs

on a proposal for a Decision of the European Parliament 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 (2006/2223(INI))

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## SHORT JUSTIFICATION

In order to ensure that it is able to function democratically, the European Union has always needed the legitimisation of its citizens – and this is all the more the case as it expands. Such legitimisation directly depends on a number of factors, including confidence in a secure and evolving system of values which uphold the fundamental rights of European citizens.

A historic milestone has been reached in the process of European integration insofar as the need for communication between the Union and European citizens has become clearer than ever. First and foremost, this means that the European Union is required to take on board the concerns of its citizens and succeed in reassuring them that its institutions are constantly endeavouring to meet their expectations. In order to be credible, such endeavours must keep step with historic developments and the fresh requirements which must be met as a result to ensure the harmonious functioning of the Union.

The institutional structure of the European Union is fashioned so as to reflect and conform to the dual basic principle of 'Union of States and Union of Peoples'. The institutions of the Union represent both the States and the people. The European Parliament is only one of the institutions representing the people. The primary objective of the European Ombudsman, as an institution governed by the rule of law, is to ensure correct conduct by the institutions and bodies of the European Union in their dealings with members of the public, showing due respect for them and thereby strengthening their confidence in these institutions and bodies and in the European edifice as a whole, wherever possible.

The proposals relating to the review of the decision of the European Parliament 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties as incorporated into Annex X to the Rules of Procedure of Parliament<sup>1</sup> acquire particular significance in the light of the above observations. Insofar as these modifications effectively equip the Ombudsman to function as required by European Union primary legislation, it is important that they be adopted.

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<sup>1</sup> OJ L 113, 4.5.1994, p. 15. Decision amended by the Decision of the European Parliament of 14 March 2002, 2002/262/EC, ECSC, Euratom (OJ L 92, 9.4.2002, p. 13).

## SUGGESTIONS

The Committee on Petitions calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its motion for a resolution:

### 1. Intervention in cases before courts

Having regard to the provisions of the Statute (Article 40, paragraph 2) and Rules of Procedure (Article 93) of the Court of Justice of the European Communities (ECJ), the possibility of submitting evidence to the ECJ can only facilitate the legal investigation process. In no case can it be looked upon as interference, since the Court itself decides, after an application has been made, whether or not to make use of testimony. Were this not so, it would be tantamount to questioning the soundness of the ECJ's judgment;

### 2. Access to documents

Access to all documents, without exception, in the possession of the Community institutions makes it possible to ensure that the Ombudsman is as fully informed as possible and hence in a position to make more appropriate recommendations, thereby protecting individual citizens more effectively. Moreover, under no circumstances is the Ombudsman entitled to divulge the contents of those documents;

### 3. Testimony given by officials of the Community institutions

As regards testimony given by officials and other servants of the European institutions pursuant to instructions from their administrations, the wording of the relevant provision risks undermining the authority of the Community institutions, creating the impression that they may have something to hide and neglecting the fact that they are, or should be, at the service of the citizens. Officials should be bound only by the relevant rules of the Staff Regulations;

### 4. Information concerning facts indicating the commission of an offence under criminal law

Where the Ombudsman uncovers facts indicating the commission of an offence under criminal law, there can be no arguable objection to the possibility of informing the Community institution responsible, or even bringing the matter to the attention of OLAF, in so far as this helps to ensure greater effectiveness in the attribution of responsibility and the administration of justice;

### 5. Cooperation in the field of human rights

Cooperation with institutions upholding fundamental rights should be possible as a matter of course. Nevertheless, it should be underlined that such cooperation should take place under the conditions specified in Article 5 of Parliament's decision on the regulations and general conditions governing the performance of the Ombudsman's duties.

## RESULT OF FINAL VOTE IN COMMITTEE

<b>Date adopted</b>	20.12.2007
<b>Result of final vote</b>	+: 23 -: 1 0: 0
<b>Members present for the final vote</b>	Robert Atkins, Inés Ayala Sender, Thijs Berman, Simon Busuttil, Carlos Carnero González, Marie-Hélène Descamps, Glyn Ford, David Hammerstein, Lidia Joanna Geringer de Oedenberg, András Gyürk, José Javier, Marcin Libicki, Manolis Mavrommatis, David Martin, Jean-Claude Martinez, Maria Matsouka, Kathy Sinnott, Margie Sudre, Antonios Trakatellis, Dushana Zdravkova, Rainer Wieland
<b>Substitute(s) present for the final vote</b>	
<b>Substitute(s) under Rule 178(2) present for the final vote</b>	Jorgo Chatzimarkakis, José Javier Pomés Ruiz, Mihaela Popa, Grażyna Staniszevska