



27.11.2018

OPINION

of the Committee on Petitions

for the Committee on Constitutional Affairs

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

Rapporteur for opinion: Margrete Auken

PA_Legam

SHORT JUSTIFICATION

The European Parliament has repeatedly called for the Ombudsman's Statute to be updated before the end of the legislative term, with a view to ensuring that the new mandate, due to commence immediately following the elections to the European Parliament in 2019, would encompass any new or modified duties already from the start.

It has been 10 years since the last revision of the Statute (in 2008) and in the meantime the Lisbon Treaty has entered into force. Over the last 10 years, the Ombudsman's role has been consolidated and enhanced, thanks especially to the tireless work done by its respective office holders. We are currently faced with new realities and challenges, and new expectations from citizens and from the Parliament in a number of key areas which require improvement.

When it comes to the implementation of the fundamental right of access to documents, Parliament has noted that, while citizens have the right to appeal denials or partial denials before the European Court of Justice, this procedure is costly and time consuming, and requires formal legal representation. The European Parliament has therefore recommended in various resolutions that the Ombudsman should be in a position to take binding decisions on access to documents cases in order to give the fullest possible effect to the right of public access to European Union documents.

Clarifications are also required in order to highlight that the Ombudsman's office is bound by Regulation (EC) 1049/2001 of the European Parliament and of the Council on public access to EU institution documents, and hence additional presumptions of secrecy for certain categories of information are removed.

Amendments are proposed to ensure that information which is classed as sensitive in accordance with Article 9 of Regulation (EC) 1049/2001 is to be shared with the Ombudsman in line with the applicable security rules. In order to promote the efficiency of Ombudsman inquiries, when testimonies are provided by EU staff this should be done in a climate that is free from obligations of professional secrecy.

Clarifications are proposed to ensure that the failure or excessive delay by the Union institutions to comply with rulings of the CJEU can also be considered a source of maladministration¹. The division of competences and compatibility of procedures between the Ombudsman and the judiciary is also clarified, and changes to the Statutes are made to ensure that the Ombudsman can have the possibility to intervene in legal cases before the European Court of Justice in the same way as other EU institutions.

Changes are also made to ensure that the Ombudsman has the right to appear before the European Parliament where appropriate, including alongside other institutions that might be the subject of specific or strategic inquiries.

Finally, in sensitive areas such as whistleblower protection or harassment in the workplace, which can become a source of maladministration if not handled adequately by EU institutions,

¹ Definition of maladministration by Jacob Söderman, first European Ombudsman: *'Maladministration occurs when a public body fails to act in accordance with a rule or principle which is binding upon it'*.

agencies and bodies, proposals are made to ensure that the Ombudsman has an advisory role in these cases, with the corresponding increase in resources that might be required as a result.

In the case of workplace harassment, changes are proposed to ensure that the Ombudsman is able to undertake inquiries to look into how anti-harassment policies are applied in practice and to make recommendations as appropriate. Advice could also be provided to EU staff who believe they are experiencing harassment. A fast-track procedure for sexual harassment cases specifically could also be envisaged - again, this service would be contingent on having the appropriate resources.

When it comes to the protection of whistleblowers, the Ombudsman has already conducted inquiries into the whistleblower protection policies of nine key EU institutions. It is important to ensure that she is able to continue doing this but also able to provide advice to potential whistleblowers on how and to what extent they may be protected for public interest disclosures. Should an EU regulation on whistleblowing come into force, it would be expected from the Ombudsman to also be able to provide an advice service to EU citizens who are unsure whether the EU whistleblower protection regulation would apply to them or not.

A specific mention is made to the need to proactively monitor possible conflicts of interest. Impartiality needs to be ensured, and this is a task that falls within the Ombudsman's remit.

AMENDMENTS

The Committee on Petitions calls on the Committee on Constitutional Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Ombudsman Statute Title

Current text

Decision of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties(1).

Amendment

Regulation of the European Parliament on the regulations and general conditions governing the performance of the Ombudsman's duties(1).

Justification

This is a new binding legislative act in form of a regulation, according to the Lisbon Treaty provisions.

Amendment 2

Ombudsman Statute Citation 1

Current text

Having regard to the Treaties establishing the European **Communities**, and in particular Article **195(4)** of the Treaty establishing the European **Community** and Article **107d(4)** of the Treaty establishing the European Atomic Energy Community,

Amendment

Having regard to the Treaties establishing the European **Union**, and in particular Article **228(4)** of the Treaty establishing the European **Union** and Article **106a(1)** of the Treaty establishing the European Atomic Energy Community,

Justification

Change “Community” to “Union” throughout the text, adapting it to the current Treaties nomenclature.

Amendment 3

Ombudsman Statute Recital 1 a (new)

Current text

Amendment

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;

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 4

Ombudsman Statute

Recital 3

Current text

Whereas the Ombudsman, who may also act on **his** own initiative, must have access to all the elements required for the performance of **his** duties; whereas to that end **Community** institutions and bodies are obliged to supply the Ombudsman, **at his** request, with any **information which he requests** of them and without prejudice to the Ombudsman's **obligation not to divulge such information**; whereas access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001(2) , should be subject to compliance with the rules on security of the **Community** institution or body concerned; whereas the institutions or bodies supplying classified information or documents as mentioned in the first subparagraph of Article 3(2) should inform the Ombudsman of such classification; whereas for the implementation of the rules provided for in the first subparagraph of Article 3(2), the Ombudsman should 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**; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

Amendment

Whereas the Ombudsman, who may also act on his or her own initiative, must have access to all the elements required for the performance of his or her duties; whereas to that end **Union** institutions and bodies are obliged to supply the Ombudsman, **upon** request, with any information **requested** of them and without prejudice to the Ombudsman's **obligations under regulation 1049/2001**; whereas access to classified information or documents, in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001(2) , should be subject to compliance with the rules on security of the **Union** institution or body concerned; whereas the institutions or bodies supplying classified information or documents as mentioned in the first subparagraph of Article 3(2) should inform the Ombudsman of such classification; whereas for the implementation of the rules provided for in the first subparagraph of Article 3(2), the Ombudsman should have agreed in advance with the institution or body concerned the conditions for treatment of classified information or documents; whereas if the Ombudsman finds that the assistance requested is not forthcoming, he shall inform the European Parliament, which shall make appropriate representations;

Justification

Linguistic changes are made to provide a more gender-neutral text, which should apply throughout the whole text. Secondly, amendments are necessary to clarify that the

Ombudsman is bound by Regulation 1049/2001, and to avoid professional secrecy being treated as a specific category of information that is presumed to be withheld.

Amendment 5

Ombudsman Statute

Recital 7

Current text

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;

Amendment

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 ***and shall not have held a political function at national ministerial level or within the European institutions;***

Amendment 6

Ombudsman Statute

Recital 10

Current text

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

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;

Justification

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

Amendment 7

Ombudsman Statute Recital 11

Current text

Whereas it is for the Ombudsman to adopt the implementing provisions for this Decision; ***whereas furthermore certain transitional provisions should be laid down for the first Ombudsman to be appointed after the entry into force of the EU Treaty;***

Amendment

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

Justification

There is no longer a need for this transitional provision, since the Lisbon Treaty is already into force.

Amendment 8

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 or her*** duties in accordance with the powers conferred on the ***Union*** institutions and bodies by the Treaties ***in particular Articles 20.2(d), 24 and 228 of the Treaty on the Functioning of the European Union and Articles 41 and 43 of the EU Charter of Fundamental Rights. The Ombudsman shall carry out his or her duties with the aim of ensuring full respect for the right to good administration and transparency and democracy in the decision-making processes at the Union institutions, bodies, offices and agencies.***

Amendment 9

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 **and cannot** question the soundness of a court's ruling. ***The Ombudsman may intervene in cases before the Court of Justice of the European Union (CJEU), in accordance with article 40 of the statute of the CJEU.***

Amendment 10

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 Ombudsman 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 Ombudsman shall inform the institution or body concerned as soon as a complaint is referred to **it, adhering to the EU standards of data protection.**

Amendment 11

Ombudsman Statute Article 2 – paragraph 4

Current text

4. A complaint shall be made within **two** years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the institutions and bodies concerned.

Amendment

4. A complaint shall be made within **three** years of the date on which the facts on which it is based came to the attention of the person lodging the complaint and must be preceded by the appropriate administrative approaches to the institutions and bodies concerned.

Justification

To allow complainants to have more time to make a complaint, considering the current cumulative time span in the interaction with institutions

Amendment 12

**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 consideration of a complaint while the alleged facts are subject to legal proceedings. The Ombudsman may make recommendations if findings suggest that failure of a Union institution, body, office or agency to correctly enforce a judgment of the Court of Justice of the European Union can constitute maladministration.***

Amendment 13

**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 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.

and other servants unless all the possibilities for the submission of internal administrative requests and complaints, in particular, **where applicable**, 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 **or unless any other person working for the Union institutions cannot avail themselves of those procedures due to status. Specific exceptions may be also provided for in harassment cases, in particular sexual harassment cases.**

Amendment 14

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 no later than two months**, inform the person lodging the complaint of the action taken on it.

Amendment 15

Ombudsman Statute Article 2 – paragraph 9 a (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.

Amendment 16

Ombudsman Statute

Article 3 – paragraph 1

Current text

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

Amendment

1. The Ombudsman shall **be empowered**, on his or her own initiative or following a complaint, **to** conduct all the enquiries which he **or she considers** 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.**

Amendment 17

Ombudsman Statute

Article 3 – paragraph 1 a (new)

Current text

Amendment

1a. The Ombudsman may conduct, without prejudice to his or her regular duties of handling complaints, own initiative inquiries of a more strategic nature to identify and combat systemic maladministration and promote the best administrative practices in the Union institutions, offices, bodies and agencies, and in order to proactively address structural issues of public interest which may affect good administration, transparency, and a democratic decision-making process.

The Ombudsman may engage in structured and regular dialogue with the institutions and organize public consultations gathering inputs and evidences before providing recommendations or at any stage thereafter, as well as systematically analyse and assess progress of the

institution affected.

Amendment 18

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

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.

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 Ombudsman's services have put in place appropriate measures and safeguards for handling the documents that ensure an equivalent level of confidentiality, in line with article 9 of Regulation 1049/2001 and in compliance with the rules on security of the Union institution or body concerned.**

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**.

originating in a Member State after having informed the Member State concerned.

In both cases, in accordance with Article 4, the Ombudsman *has to respect the application of Regulation 1049/2001*.

Officials and other servants of **Union** institutions, offices, bodies and agencies must testify at the request of the Ombudsman.

Amendment 19

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. The Member State concerned may allow the Ombudsman to have information *covered by laws or regulations on secrecy, following an agreement on the adequate handling of the sensitive information. A detailed description of the document shall be provided in any event.*

Amendment 20

Ombudsman Statute Article 3 – paragraph 4

Current text

4. If the assistance *which he requests* is not forthcoming, the Ombudsman shall inform the European Parliament, which shall make appropriate representations.

Amendment

4. If the assistance *requested* is not forthcoming, the Ombudsman shall inform the European Parliament, which shall make appropriate representations, *including the ensuring of the Ombudsman's presence in committee meetings and other meetings or hearings.*

Justification

Allow for more presence of the Ombudsman in the Parliament, which is already foreseen under Article 220 of Parliament's Rules of Procedure¹

Amendment 21

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

Current text

Amendment

4a. Where appropriate the Ombudsman may request or 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 request or be requested to appear together with the Ombudsman.

Amendment 22

**Ombudsman Statute
Article 3 – paragraph 6**

¹ *Rule 220 : Activities of the Ombudsman*

2. The Ombudsman may also provide the committee responsible with information at its request, or be heard by it on his or her own initiative.

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

Amendment 23

**Ombudsman Statute
Article 3 – paragraph 7**

Current text

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 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.

Amendment

7. The Ombudsman **may** then send a report to the European Parliament and to the institution or body concerned. **The Ombudsman** may make recommendations in **the** 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. **When appropriate the Ombudsman may request or be requested to appear before the plenary of the Parliament.**

Amendment 24

**Ombudsman Statute
Article 3 – paragraph 8**

Current text

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of his inquiries.

Amendment

8. At the end of each annual session the Ombudsman shall submit to the European Parliament a report on the outcome of their inquiries, **including an assessment of the adequacy of resources**

available for the Ombudsman to perform their duties.

Justification

Attempt to ensure that there is an adequate level of resources, with regard to the procedure foreseen in article 11(2) of the current Statute on the number of personnel working for the Ombudsman.

Amendment 25

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

Current text

Amendment

8a. The Ombudsman 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 26

**Ombudsman Statute
Article 4 – paragraph 1**

Current text

Amendment

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

deleted

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.

Justification

The Ombudsman is bound by Regulation 1049/2001 just like all the other institutions and therefore this should be amended accordingly, rather than carving out a separate exception specifically for the Ombudsman's investigations.

Amendment 27

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

Current text

Amendment

Article 4a

1. The Ombudsman and his or her 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 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 which the concerned institutions, agency or body shall respond within the time frames provided by Regulation 1049/2001.

2. If the concerned institution does not follow the recommendation to divulge the said documents, it must duly motivate its refusal. The Ombudsman may refer an eventual refusal to the Court of Justice of the European Union, as well as demand the application of the accelerated procedure provided in its rules of

procedure.

Amendment 28

Ombudsman Statute Article 5 – paragraph 1

Current text

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.

Amendment

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 may ***exceptionally request*** to see documents ***otherwise not accessible*** under Article 3.

Amendment 29

Ombudsman Statute Article 5 a (new)

Current text

Amendment

Article 5a

1. The Ombudsman shall conduct regular assessments of the policies and reviews of procedures in place in the relevant EU institutions, bodies and agencies in accordance with Article 22 of the Staff Regulations and shall, where appropriate, formulate concrete recommendations for improvement with a view to ensuring full protection for whistle-blowers.

2. The Ombudsman may be contacted to confidentially provide information, impartial advice and expert guidance to potential whistle-blowers concerning the scope of application of the

relevant provisions in the Union's legislation. The Ombudsman may also open inquiries based on the information provided, 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

Amendment 30

Ombudsman Statute Article 5 b (new)

Current text

Amendment

Article 5b

1. The Ombudsman shall periodically examine the procedures linked to the administrative action of Union institutions, bodies, offices and agencies and shall assess whether they are able effectively to prevent conflicts of interest, to guarantee impartiality and to ensure full respect for the right to good administration.

2. The Ombudsman may identify and assess possible instances of conflicts of interest at all levels which could constitute a source of maladministration, in which case specific conclusions shall be drawn up and the Parliament shall be informed of the findings on the subject.

Amendment 31

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,

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.

offer every guarantee of independence, *have not been Members of national governments or Members of Union's institutions within the past three years* and meet the conditions *of impartiality* required for *high* judicial *positions* in their country or have the acknowledgement competence and experience to undertake the duties of *the* Ombudsman.

Amendment 32

Ombudsman Statute Article 8

Current text

Article 8

An Ombudsman who no longer fulfils the conditions required for the performance of his duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Communities at the request of the European Parliament.

Amendment

Article 8

An Ombudsman who no longer fulfils the conditions required for the performance of his *or her* duties or is guilty of serious misconduct may be dismissed by the Court of Justice of the European Union at the request of the European Parliament, *after having been heard by the competent committees*.

Justification

Addition of one more step to the procedure. In order to guarantee a debate in the public eye given the nature of the institution and the crucial role it plays vis-à-vis the EU citizens. This should be done before the institution primarily responsible for the appointment of the Ombudsman, namely the Parliament.

Amendment 33

Ombudsman Statute Article 11 – paragraph 1 a (new)

Current text

Amendment

1a. The Ombudsman should aim to achieve gender parity within the

Justification

Codification in order to ensure gender neutrality at the Ombudsman's office, which is normally already a policy in place.

Amendment 34

**Ombudsman Statute
Article 12 a (new)**

Current text

Amendment

Article 12a

- 1. The Ombudsman shall examine in a timely manner whether the institutions, bodies, offices and agencies of the Union adequately handle harassment cases of any kind and nature by correctly applying the procedures provided for in connection with complaints. The Ombudsman shall draw up appropriate conclusions on the subject.**
- 2. The Ombudsman shall appoint within the secretariat a person or structure with expertise in the field of harassment that is able where appropriate to provide advice to EU Staff and other workers. The Ombudsman shall assess the procedures in place to prevent harassment of any kind within the institutions, bodies, offices and agencies of the Union, as well as the mechanisms to penalise those responsible and draw up appropriate conclusions on whether those procedures are consistent with the principles of proportionality, adequacy and energetic action, and whether they provide victims with effective protection and support.**

Amendment 35

Ombudsman Statute

Article 13

Current text

Article 13

The seat of the Ombudsman shall be that of the European Parliament.

Amendment

Article 13

The seat of the Ombudsman shall be that of ***the seat of*** the European Parliament

Justification

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

Amendment 36

Ombudsman Statute

Article 15

Current text

Article 15

The first Ombudsman to be appointed after the entry into force of the EU Treaty shall be appointed for the remainder of the parliamentary term.

Amendment

deleted

Justification

Obsolete provision.

Amendment 37

Ombudsman Statute

Article 17

Current text

Article 17

This ***Decision*** shall be published in the Official Journal of the European ***Communities***. It shall enter into force on

Amendment

Article 17

This ***Regulation*** shall be published in the Official Journal of the European ***Union***. It shall enter into force on the date of its

the date of its publication.

publication.

Justification

See am 1 and am 2. This is a new binding legislative act in form of a regulation, according to the Lisbon Treaty provisions, where the nomenclature “Community” and its legality is replaced by that of the “Union”.

INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

Date adopted	21.11.2018
Result of final vote	+: 16 -: 0 0: 8
Members present for the final vote	Margrete Auken, Beatriz Becerra Basterrechea, Andrea Cozzolino, Pál Csáky, Miriam Dalli, Eleonora Evi, Peter Jahr, Rikke-Louise Karlsson, Svetoslav Hristov Malinov, Lukas Mandl, Notis Marias, Ana Miranda, Miroslavs Mitrofanovs, Marlene Mizzi, Gabriele Preuß, Eleni Theocharous, Cecilia Wikström
Substitutes present for the final vote	Urszula Krupa, Kostadinka Kuneva, Julia Pitera, Ángela Vallina
Substitutes under Rule 200(2) present for the final vote	Asim Ademov, Adam Szejnfeld, Mihai Țurcanu

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

16	+
ALDE	Beatriz Becerra Basterrechea, Cecilia Wikström,
ECR	Urszula Krupa, Notis Marias, Eleni Theocharous
EFDD	Eleonora Evi
GUE/NGL	Kostadinka Kuneva, Ángela Vallina
NI	Rikke-Louise Karlsson
S&D	Andrea Cozzolino, Miriam Dalli, Marlene Mizzi, Gabriele Preuß
VERTS/ALE	Margrete Auken, Ana Miranda, Miroslavs Mitrofanovs

0	-

8	0
PPE	Asim Ademov, Pál Csáky, Peter Jahr, Svetoslav Hristov Malinov, Lukas Mandl, Julia Pitera, Adam Szejnfeld, Mihai Țurcanu

Key to symbols:

+ : in favour

- : against

0 : abstention