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DRAFT REPORT

on the activities of the European Ombudsman - annual report 2019
(2020/2125(INI))

Committee on Petitions

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on the annual report on the activities of the European Ombudsman in 2019 (2020/2125(INI))

The European Parliament,

- having regard to the annual report on the activities of the European Ombudsman in 2019,
 - having regard to Articles 24, third paragraph, and 228 of the Treaty on the Functioning of the European Union,
 - 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 duties¹,
 - having regard to Articles 11, 41, 42 and 43 of the Charter of Fundamental Rights of the European Union,
 - having regard to the United Nations Convention on the Rights of Persons with Disabilities,
 - having regard to its previous resolutions on the activities of the European Ombudsman,
 - having regard to Rules 54, 142(2) and 232(1) of its Rules of Procedure,
 - having regard to the resolution of 19 February 2019 on the European Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the European Union,
 - having regard to the European Code of Good Administrative Behaviour, as adopted by Parliament on 6 September 2001,
 - having regard to the report of the Committee on Petitions (A9-0000/2020),
- A. whereas the annual report on the activities of the European Ombudsman in 2019 was formally submitted to the President of the European Parliament on 5 May 2020, and whereas the European Ombudsman, Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 3 September 2020;
- B. whereas Emily O'Reilly was re-elected European Ombudsman by Parliament at its plenary sitting in Strasbourg on 18 December 2019;
- C. whereas the European Ombudsman's main priority is to ensure that citizens' rights are fully upheld and that the right to good administration reflects the highest standards

¹ OJ L 113, 4.5.1994, p. 15.

expected of the institutions, bodies, offices and agencies of the Union;

- D. whereas the role of the European Ombudsman as a member of the EU Framework of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD) is to protect, promote and monitor its implementation at the level of the EU institutions; whereas the European Ombudsman chaired the EU Framework in 2019;
- E. whereas on 12 February 2019 Parliament approved a draft regulation of the European Parliament laying down the regulations and general conditions governing the performance of the Ombudsman's duties (Statute of the European Ombudsman) and repealing Decision 94/262/ECSC, EC, Euratom²; whereas this new regulation is now awaiting approval by the Council;
1. Approves the annual report for 2019 presented by the European Ombudsman;
 2. Congratulates Emily O'Reilly on her re-election as European Ombudsman and on her excellent work; endorses her commitment to continue her efforts to 'ensure that the EU delivers the highest standards of administration, transparency and ethics', and to guarantee the accessibility and quality of the services that the EU provides to European citizens;

Transparency and ethics

3. Expresses satisfaction at its fruitful relationship with the European Ombudsman, a key and indispensable partner of the European Parliament, which re-elected the outgoing Ombudsman, Emily O'Reilly, for a second term of office and endorsed her proposal for a special report on transparency in the Council by adopting a resolution approved by a plenary majority in January 2019;
4. Stresses the importance of the European institutions maintaining the highest possible level of transparency, in order to enable citizens to take an active part in decision-making and to strengthen their trust in and feeling of proximity to the institutions;
5. Applauds the European Ombudsman's ambition to maintain in all circumstances a high level of vigilance regarding the upholding of the highest possible standards of transparency and ethics, including in a health crisis;
6. Urges the European Ombudsman to continue promoting greater transparency in legislative discussions in the preparatory bodies of the Council of the European Union, as regards both public access to its legislative documents and its decision-making process, so that its deliberations can be more readily understood;
7. Urges the Council to follow the European Ombudsman's recommendations; calls for the systematic identification of Member State governments which set out positions in the preparatory bodies;
8. Notes that, in keeping with the European Ombudsman's recommendations, the Commission and the Council have maintained a high level of transparency of the

² Texts adopted, P8_TA(2019)0080.

legislative process throughout the negotiations on EU-UK relations, and urges them to do the same when drawing up the future free trade agreement; calls more broadly on the Commission to fulfil its obligations regarding sustainability impact assessments of all EU trade agreements;

9. Points out that for years transparency, and in particular access to documents, has been the main subject of complaints, and welcomes the fact that in connection with a number of inquiries the European Ombudsman has called for public access to be granted; deplores, however, the fact that the European Ombudsman's recommendations are not always followed up and that OLAF's report on the use of a loan granted to the German car manufacturer Volkswagen has still not been published; calls for EU legislation on access to documents (Regulation 1049/2001) to be updated in order to facilitate the European Ombudsman's work;
10. Applauds the European Ombudsman's repeated efforts to combat conflicts of interest, approves the publication, following an inquiry, of the minutes of meetings held between lobbyists and the President of the European Council, and calls for the conclusion of a fair and ambitious interinstitutional agreement on the Transparency Register; stresses, however, the need to adopt in the longer term a decision establishing a fully mandatory register for lobbyists;
11. Notes that the Commission has committed itself to implementing many of the European Ombudsman's proposals on the issue of 'revolving doors', and endorses the recommendation to take a firmer approach;
12. Points out that the EU public administration has many rules designed to prevent conflicts of interest and that the European Ombudsman's task is to ensure that they are implemented, and calls for the evaluation of the declarations of interests submitted by Commissioners-designate to be carried out independently by appropriate means;
13. Fully endorses the European Ombudsman's confirmation of her finding that four instances of maladministration marred the appointment process of the most senior Commission official, and applauds the new Commission's introduction in 2019 of a specific appointment procedure for its Secretary-General;
14. Welcomes the increased and necessary importance that the European Ombudsman attaches to problems involving procurement procedures;
15. Welcomes the European Ombudsman's increased focus on cases concerning the Commission's management of EU-funded projects; calls, in particular, on the Commission to ensure that resources made available through the European Structural and Investment Funds are disbursed by the Member States in accordance with the requirements laid down in the UNCRPD on independent living for persons with disabilities;

Disability

16. Welcomes the European Ombudsman's role in protecting, promoting and monitoring the implementation of the UNCRPD by the EU administration, and in strengthening the EU agenda for the rights of persons with disabilities;

17. Congratulates the European Ombudsman on the strategic inquiry into the accessibility of Commission websites for persons with disabilities, and applauds the Commission's efforts to put her ideas into practice by providing more information in easy-to-read formats;
18. Calls on the Commission to propose a comprehensive, ambitious and long-term European Disability Strategy for the post-2020 period;

Complaints

19. Notes that in 2019 the Ombudsman received numerous complaints from EU citizens residing in a Member State other than their own who encountered difficulties in trying to register for and/or vote in the 2019 European Parliament elections, and points out that the right to vote in elections is a fundamental right recognised in the EU Treaties;
20. Urges the European Ombudsman to remain vigilant and resolute in handling complaints concerning fundamental rights, including equality, non-discrimination and the right to be heard, and welcomes her inquiry into the European Asylum Support Office and her interviews with asylum seekers, and into the Commission's handling of a complaint concerning discrimination against Roma in Italy;
21. Notes that the number of inquiries concerning the European Personnel Selection Office (EPSO) rose from 23 in 2018 to 44 in 2019; urges the European Ombudsman to monitor closely the proper implementation of anti-discrimination measures which apply to all recruitment procedures;
22. Applauds the European Ombudsman's commitment to the right of citizens to be involved in the EU democratic process, endorses her decision to reply to all those seeking assistance in the language of their complaint, and calls on the EU public administration to make every effort to ensure that citizens are able to communicate effectively with her in the 24 official languages of the EU; welcomes the European Ombudsman's draft guidelines on the use of languages on the websites of the EU institutions;
23. Acknowledges the important contribution made by the European Network of National and Regional Ombudsmen to the exchange of best practices and information on the remit and competences of its members and the proper implementation of European law; suggests that this network could be more closely involved in overseeing the proper use of EU funds; suggests that it could also offer support to national or regional ombudsmen who come under strong pressure from their governments, particularly in connection with violations of fundamental rights, including LGBTI rights;

Statute and powers

24. Calls on the Council to approve the revised Statute of the European Ombudsman, so that the Office of the Ombudsman is better able to promote the highest standards of ethical behaviour in the institutions;
25. Urges the European Parliament to overhaul the nomination process for the election of the European Ombudsman, so that the election at the beginning of the parliamentary

term can take place in a more informed, uniform and orderly manner;

26. Congratulates the European Ombudsman on her previous five-year strategy ‘Towards 2019’, which introduced a more strategic approach to promoting good administration; awaits the publication of the strategy for the future, which will have to take account of the unprecedented situation facing Europe;
27. Instructs its President to forward this resolution and this report to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States and to their Ombudsmen and equivalent competent bodies.

EXPLANATORY STATEMENT

The annual report on the activities of the European Ombudsman in 2019 was formally submitted to David Sassoli, President of the European Parliament, on 5 May 2020 - electronically, owing to the special circumstances of the COVID-19 pandemic. The report was presented at a meeting of the Committee on Petitions, which is responsible for relations with the Office of the European Ombudsman, on 3 September 2020 by Emily O'Reilly, who had been re-elected European Ombudsman at Parliament's plenary sitting of 18 December 2019 in Strasbourg.

The Office of European Ombudsman celebrates the 25th anniversary of its establishment this autumn against the backdrop of a health crisis on a scale never seen since the European Union was founded. The European Ombudsman's task is to ensure that citizens' rights are fully upheld and that the right to good administration reflects the highest standards expected of the institutions, bodies, offices and agencies of the Union in all circumstances. The European Ombudsman also plays a key role in helping the European institutions to improve openness, effectiveness and proximity to citizens, with a view to enhancing citizens' trust in the EU and thereby facilitating participation in civic life.

The European Ombudsman, whose appointment is approved by the European Parliament and the Commission, finds that there is maladministration 'where a public body fails to act in accordance with a rule or principle which is binding upon it'. In the case of the institutions, these rules and principles include respect for the rule of law, the principles of good administration and fundamental rights. The European Ombudsman is empowered to receive complaints about maladministration in the work of the EU institutions³ - the legal basis for her mandate is Article 228 of the Treaty on the Functioning of the European Union (TFEU). The right to submit a complaint to the European Ombudsman is provided for in Article 24 TFEU and in Article 43 of the Charter of Fundamental Rights of the European Union. Lastly, Article 41 of the Charter of Fundamental Rights enshrines the right to good administration as a fundamental right. It is binding on the administration of the European institutions and stipulates 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 2019, the European Ombudsman dealt with 2201 complaints and opened 456 inquiries on the basis of complaints and two own-initiative inquiries. She closed 552 inquiries opened on the basis of complaints and eight own-initiative inquiries.

Of the 458 inquiries opened, 274 (59.7%) concerned the Commission, 33 (7.2%) the EU agencies, 54 (11.8%) other bodies, 44 (9.8%) the European Personnel Selection Office (EPSO), 21 (4.6%) the European Parliament, 17 (3.7%) the European External Action Service and 9 (2%) the European Anti-Fraud Office. As the Commission is the main EU institution whose decisions have a direct impact on citizens, it is logical that it should be the chief subject of citizens' complaints.

The majority of inquiries closed in 2019 concerned transparency and accountability, as well as access to information and documents (151), followed by service culture (123), the

³ For the purposes of this report, the term 'institution' also covers the Union's bodies, agencies and offices.

appropriate use of discretionary powers (111), upholding of procedural rights (74), sound management of staff matters (73), recruitment (69), upholding of fundamental rights (47), sound financial management (36), ethics (15) and public participation in the EU decision-making process (12).

Your rapporteur notes that, wherever possible, the European Ombudsman tries to achieve a positive outcome by working towards an amicable solution that is satisfactory to both the complainant and the institution concerned. In 2019, 316 cases were closed without any finding of maladministration, 187 cases were resolved amicably and in 30 cases the European Ombudsman considered that there were insufficient grounds for continuing the inquiry.

Twenty-nine cases were closed with critical comments being addressed to the institutions concerned on the basis of a finding of maladministration, and the suggestions were (partially) accepted. The European Ombudsman may also make additional remarks which are intended not to criticise the institution concerned, but to guide and advise it on how to improve the service offered. In response to receipt of a draft recommendation, the Treaties require the institution concerned to forward a detailed opinion to the European Ombudsman within three months.

If an EU institution fails to respond satisfactorily to a draft recommendation, the European Ombudsman can send a special report to the European Parliament. The report is the last weapon available to the European Ombudsman when dealing with a case. From this point it is for Parliament to decide on any further steps, such as drawing up a resolution. Special reports are submitted to the Committee on Petitions, the committee responsible for the relations with the European Ombudsman.

In January 2019, Parliament endorsed her proposal for a special report on transparency in the Council by adopting a resolution approved by a plenary majority in January 2019 (the European Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the European Union). These inquiries by the European Ombudsman are valuable because, on the one hand, they offer remedies to the problems identified and point to ways of continuously improving the governance of the European institutions, and, on the other, they hold the institutions accountable to European citizens and serve to maintain or enhance citizens' trust in the EU and its leading institutions.

Your rapporteur therefore welcomes the European Ombudsman's initiatives to keep the general public informed and ensure that the institutions learn from their mistakes, and points out that the Office of the European Ombudsman publishes annually on its website a study on the follow-up by the institutions to her critical comments inviting the institutions to react.

Your rapporteur also commends the Office of the European Ombudsman for the greater efforts it made in 2019 to improve its online communication, for example by highlighting successful inquiries on the homepage of its regularly updated website. This provides the public with easy-to-understand information about the European Ombudsman's activities. Communication about the activities of the European Ombudsman through social networks (Twitter, LinkedIn and Instagram) also helps to enhance the visibility and understanding of her work.

These communication approaches foster participation by civil society in the European project. In that connection, your rapporteur emphasises the way the European Ombudsman has given

thought to the matter of citizens' participation in the democratic process or measures to improve inclusiveness in the institutions.

In 2019, a year marked by European elections, the European Ombudsman took part, as a member of the European Network of Ombudsmen, in its annual conference, which was held in April 2019 in Brussels and brought together members of the Network and representatives of the EU institutions and other organisations. Participants looked at ways of enhancing citizens' participation in the democratic process. They considered new initiatives on public mobilisation and participation in civic life, and how existing structures and institutions need to adapt to these, including the role ombudsmen have to play.

Lastly, in 2019 the European Ombudsman also chaired the EU Framework for the Protection, Promotion and Monitoring of the Implementation of the UN Convention on the Rights of Persons with Disabilities, of which the European Parliament's Committee on Petitions and the Committee on Employment and Social Affairs, the Fundamental Rights Agency, the European Commission and the European Elderly Forum are also members. As a member of this framework, she defends, encourages and monitors the implementation of the UN convention by the EU administration.

With the support of the European Disability Forum, the European Parliament and the EU's Fundamental Rights Agency, the European Ombudsman worked on ideas to be put to the Commission for a more ambitious and comprehensive post-2020 European Disability Strategy. The European Ombudsman followed up on the suggestions for improvement made in the context of her strategic inquiry on the accessibility of the Commission's websites and online tools for persons with disabilities.

As regards the election of the European Ombudsman, your rapporteur calls on the European Parliament to consider ways of improving the appointment process so that the election at the beginning of the parliamentary term can take place in a more transparent, uniform and orderly manner.