

Ombudsman's 2005 annual report

European Parliament resolution on the annual report on the European Ombudsman's activities in 2005 (2006/2117(INI))

The European Parliament,

- having regard to the annual report on the European Ombudsman's activities in 2005,
 - having regard to Article 195 of the EC Treaty,
 - having regard to Article 43 of the Charter of Fundamental Rights 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 the Commission communication of 5 October 2005 on 'Empowerment to adopt and transmit communications to the European Ombudsman and authorise civil servants to appear before the European Ombudsman' (SEC(2005)1227),
 - having regard to its previous resolutions on the European Ombudsman's activities, in particular, its resolution of 4 April 2006 on the special report from the European Ombudsman following the draft recommendation to the Council of the European Union in complaint 2395/2003/GG concerning the openness of the meetings of the Council when acting in its legislative capacity²,
 - having regard to Rule 195(2), second and third sentences, of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A6-0309/2006),
- A. whereas the annual report on the European Ombudsman's activities in 2005 was formally submitted to the President of Parliament on 13 March 2006 and the Ombudsman, Nikiforos Diamandouros, presented his report on 3 May 2006 to its Committee on Petitions,
- B. whereas the Charter of Fundamental Rights of the European Union was proclaimed at the Nice European Council on 7 December 2000 and whereas the political will exists to give it binding force in law,
- C. whereas Article 41 of the Charter of Fundamental Rights provides that 'Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions and bodies of the Union',
- D. whereas Article 195 of the EC Treaty and Article 43 of the Charter of Fundamental

¹ OJ L 113, 4.5.1994, p. 15. Decision amended by Decision 2002/262/EC, ECSC, Euratom (OJ L 92, 9.4.2002, p. 13).

² *Texts Adopted*, P6_TA(2006)0121.

Rights provide 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 Ombudsman of the Union cases of maladministration in the activities of the Community institutions or bodies, with the exception of the Court of Justice and the Court of First Instance acting in their judicial role’,

- E. whereas it is essential that the Community institutions and bodies be equipped with the necessary budgetary resources in order to fulfil their obligations to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions,
- F. whereas the Ombudsman has advocated that all Community institutions and bodies pursue a common approach with regard to the Code of Good Administrative Behaviour and its resolution of 6 September 2001³ thereon,
- G. whereas 2005 saw the highest number of complaints to the European Ombudsman received so far⁴, and whereas in 2005 the Ombudsman provided effective assistance in over 75% of all cases referred to him, including inadmissible complaints, either by opening an inquiry into the case, transferring it to a competent body, or giving advice on where to turn for a prompt and effective solution to the problem;
- H. whereas, however, almost 70% of all complaints received still fall outside the terms of reference of the Ombudsman and, in 93.7% of cases, this is due to the fact that, in terms of content, they do not fall within those terms of reference since they are not directed against a Community institution or a Community body,
- I. whereas the activities of the Ombudsman and its Committee on Petitions may overlap, in particular, where the Ombudsman is examining whether the conduct by the Commission of infringement proceedings against a Member States has complied with general principles of EC law and good administration, and its Committee on Petitions, at the same time, is examining petitions that allege infringements of Community law by that Member State on the same subject,
- J. whereas in 2005 the Ombudsman dealt with a total of 627 inquiries; and whereas the findings of the completed inquiries show that in 114 cases no maladministration could be ascertained; whereas 89 cases were settled by the institution or body itself following a complaint to the Ombudsman and 22 friendly solutions were proposed;
- K. whereas the Ombudsman's inquiries often produce positive results for complainants and help to improve the quality of administration through the adoption and implementation of suitable measures by the institutions and bodies concerned,
- L. whereas the Ombudsman submitted to Parliament three special reports in 2005; whereas submitting a special report to Parliament represents a valuable means by which the Ombudsman can seek the political support of Parliament and its Committee on Petitions in order to bring satisfaction to citizens whose rights have been infringed, and promotes the improvement of standards of European administration,

³ OJ C 72 E, 21.3.2002, p. 331.

⁴ A total of 3920 or an increase of 5% over the previous year. However, 335 concerned the same subject and were dealt with in a single joint inquiry.

- M. whereas the largest number of inquiries into complaints concerned alleged lack of transparency; and whereas this is a matter of concern with respect to the democratic accountability of the Union;
 - N. whereas 68% of the Ombudsman's inquiries concerned the Commission; whereas the Commission adopted new internal procedures on 4 October 2005 for responding to the Ombudsman's inquiries,
 - O. whereas in 2005 the Ombudsman continued to build constructive working relations with other Community institutions and bodies through meetings and joint events; whereas in 2005 the Ombudsman continued to extend and energise the European Network of Ombudsmen by developing information exchanges and the sharing of best practice; whereas its Committee on Petitions participates in this Network;
 - P. whereas in 2005, the institution of the Ombudsman marked its tenth anniversary; whereas the Ombudsman's communication activities on the occasion of that anniversary had the objective of raising citizens' awareness of their rights and of how to exercise those rights and of the terms of reference of the Ombudsman,
1. Considers that the Ombudsman has continued successfully to pursue the objectives of enhancing the effectiveness of his institution towards promoting good administration and respect for the rule of law and human rights;
 2. Regards the role of the Ombudsman in enhancing openness and accountability in the decision-making processes and administration of the European Union as an essential contribution towards a Union in which decisions are taken 'as openly as possible and as closely as possible to the citizen', as provided for by Article 1(2) of the Treaty on European Union;
 3. Would welcome a tightening up of internal parliamentary procedures in order to guarantee in future swifter processing of the Ombudsman's annual report by its Committee on Petitions;
 4. Calls upon all Community institutions and bodies to be equipped with the necessary budgetary resources in order to ensure that citizens receive prompt and substantive responses to their enquiries, complaints and petitions;
 5. Repeats its call as expressed in previous resolutions for all Community institutions and bodies to adopt a common approach with regard to a Code of Good Administrative Behaviour on the basis of its abovementioned resolution of 6 September 2001;
 6. Agrees with the Ombudsman that the manner and method by which an administration responds to legitimate complaints are the yardstick for the degree of proximity to the citizen of the institutions and bodies and that there is still much room for improvement;
 7. Welcomes the fact that, even in cases where no maladministration could be ascertained, the complainants were provided with assistance and the inquiry was at the same time used as an opportunity to improve the quality of administration;
 8. Declares its satisfaction with the public profile of the Ombudsman, whose aim is to provide the public with information, and considers that information of quality may help

to reduce the number of complaints which do not fall within the Ombudsman's terms of reference; at the same time, calls on the Ombudsman to forward immediately those complaints which do not fall within his terms of reference by way of the most appropriate network, from the subsidiarity point of view, at national and local level;

9. Welcomes the generally constructive cooperation between the Ombudsman and the Community institutions and bodies and endorses him in his role of external control mechanism and, in addition, as a valuable source of ongoing improvement to European administration;
10. Notes that the Ombudsman has submitted three special reports, two of which have already been considered by Parliament, while consideration of the remaining report can now commence on the conclusion of judicial procedures;
11. Is convinced that the necessary adaptation of the Ombudsman's Statute of 9 March 1994, as already called for in its Committee on Petitions' last report on the Ombudsman's annual report for 2004, should be carried out as soon as possible; welcomes the Ombudsman's submission to the President of Parliament of a substantive proposal for such adaptation on 11 July 2006;
12. Appreciates the Ombudsman's good cooperation with its Committee on Petitions;
13. Stresses the need, however, for a clear definition and demarcation of the role of the European Ombudsman vis-à-vis the role of its Committee on Petitions and urges the Ombudsman to continue to remain within his terms of reference when seeking to assist citizens;
14. Considers, nevertheless, that when the Ombudsman and its Committee on Petitions, acting within their respective mandates and competences, investigate overlapping issues, such as, respectively, the manner in which the Commission has conducted infringement proceedings and the alleged infringement itself, they can achieve useful synergy through close cooperation;
15. Calls on the European Ombudsman to exercise ex officio his powers of scrutiny with a view to ensuring transparency and the proper functioning of all recruitment procedures, whether carried out through the European Personnel Selection Office (EPSO) or directly through a European body, including the Ombudsman's own personnel service;
16. Welcomes the special report on the openness of meetings of the Council when acting in its legislative capacity and calls on the Council to comply with its abovementioned resolution of 4 April 2006 and, in future, for all the meetings in which it acts in its legislative capacity to be open and accessible to the public;
17. Calls on future Council presidencies, as part of the efforts to boost transparency, to do their best to provide Internet pages in all the official languages of the EU (in accordance with Annex I to the conclusions of the European Council meeting in Brussels on 15-16 June 2006) in order to allow and facilitate access to its activities for as many citizens as possible;
18. Proposes also, as part of the efforts to achieve greater proximity to the citizen, that the entry portal <http://europa.eu> be established as the uniform entry page for all Community

institutions in order to ensure a better overview for citizens of institutional arrangements, allocation of responsibilities and decision-making procedures within the European Union through as clear and simple a structure as possible and to avoid unnecessary confusion from sites existing in parallel;

19. Welcomes the introduction of new internal procedures at the Commission as the main body concerned with answering inquiries from the Ombudsman, whereby individual Commissioners assume sponsorship for a specific case, and calls on the Commission to introduce this kind of procedure for the processing of petitions as well;
20. Welcomes the European Network of Ombudsmen and the collaboration between the European Ombudsman and ombudsmen and similar bodies at national, regional and local levels in the Member States and urges further strengthening of the exchange of best practice;
21. Calls on the Ombudsman to inform its Committee on Petitions at regular intervals about his activities in the Member States and his contacts with the national Ombudsmen;
22. Welcomes, in particular, the special written procedure whereby national or regional ombudsmen receive written answers to queries about Community law and its interpretation via the European Ombudsman as a valuable contribution towards better transposition and application of Community law;
23. Encourages the European Ombudsman to continue to place great emphasis on events involving citizens and, hence, potential complainants, since clearly the demarcation of responsibilities and decision-making processes between the European, national and regional levels are still too hard to grasp for many citizens and businesses;
24. Acknowledges the efforts of the Ombudsman to enhance the citizens' awareness of their rights to lodge a complaint with the Ombudsman; however, urges him in the light of the large number of complaints falling outside his terms of reference to intensify his efforts to provide clear information about those terms of reference on a more regular basis;
25. Welcomes the increasing participation of the media in publicising the work of the Ombudsman;
26. Approves the annual report for 2005 presented by the European Ombudsman and appreciates, in particular, the detailed breakdown of complaints by procedure adopted, nature of alleged maladministration, institution concerned, etc;
27. Instructs its President to forward this resolution and the report of its Committee on Petitions to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States and their ombudsmen or similar competent bodies.