



TEXTS ADOPTED

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Activities of the European Ombudsman - annual report 2023

European Parliament resolution of 17 December 2024 on the annual report on the activities of the European Ombudsman in 2023 (2024/2056(INI))

The European Parliament,

- having regard to the annual report on the activities of the European Ombudsman in 2023,
- having regard to Article 10(3) of the Treaty on European Union,
- having regard to Articles 15, 24(3), 228 and 298(1) of the Treaty on the Functioning of the European Union (TFEU),
- having regard to Regulation (EU, Euratom) 2021/1163 of the European Parliament of 24 June 2021 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, Euratom¹,
- having regard to Articles 11, 41, 42 and 43 of the Charter of Fundamental Rights of the European Union (the Charter),
- having regard to the UN Convention on the Rights of Persons with Disabilities (UN CRPD),
- 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,

¹ OJ L 253, 16.7.2021, p. 1,
ELI: <http://data.europa.eu/eli/reg/2021/1163/oj>.

- having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rules 55 and 148(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A10-0016/2024),
- A. whereas the annual report on the activities of the European Ombudsman in 2023 was formally submitted to the President of Parliament on 18 April 2024 and the Ombudsman, Ms Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 4 September 2024;
 - B. whereas Articles 20, 24 and 228 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 of the European Union acting in its judicial role;
 - C. 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';
 - D. whereas Article 41 of the Charter states 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';
 - E. 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';
 - F. whereas Article 298(1) TFEU states 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';
 - G. whereas the European Ombudsman may propose recommendations and suggest remedies and improvements aimed at resolving various aspects of maladministration;

- H. whereas in 2023, the Ombudsman opened 398 inquiries, of which 393 were complaint-based and 5 own-initiative, while closing 372 inquiries (369 complaint-based and 3 own-initiative);
- I. whereas in 2023, the majority of the inquiries concerned the Commission (250 inquiries or 62,81 %), while the next largest numbers concerned the European Personnel Selection Office (EPSO) (47 inquiries or 11,81 %), the European Parliament (16 inquiries or 4,02 %) and the European Border and Coast Guard Agency (Frontex) (11 inquiries or 2,76 %); whereas the remaining inquiries were distributed as follows: the Council of the European Union (7 inquiries or 1,76 %), the European Anti-Fraud Office (7 inquiries or 1,76 %), the European External Action Service (6 inquiries or 1,51 %), the European Data Protection Supervisor (6 inquiries or 1,51 %), the European Union Intellectual Property Office (5 inquiries or 1,26 %), other EU agencies (33 inquiries or 8,27 %) and other EU institutions or bodies (12 inquiries or 3,01 %);
- J. whereas in 2023, the largest percentage of the Ombudsman's inquiries concerned the Commission, whose administrative activities are receiving considerable public attention given that it is the EU executive;
- K. whereas in the inquiries closed by the Ombudsman in 2023, no maladministration was found in 99 (26,6 %) cases, a solution was achieved, partly achieved or settled by the institution in 206 (55,4 %) cases, no further inquiries were justified in 46 (12,4 %) cases and maladministration was found in 27 (7,3 %) cases;
- L. whereas the top three concerns in the inquiries closed by the Ombudsman in 2023 were transparency and accountability (e.g. access to information and documents) (34,2 %), culture of service (21,5 %) and recruitment (15,3 %); whereas other concerns include good management of personnel issues, proper use of discretion (including in infringement procedures), proper management of infringement procedures, respect for fundamental rights, respect for procedural rights, grants, procurement, contracts, ethics, public participation in EU decision-making and sound financial management;
- M. whereas in 2023, the Ombudsman also conducted wider strategic inquiries and initiatives into systemic issues in the EU institutions, covering access to documents, fundamental rights, ethical issues, accountability in decision-making and recruitment of EU civil servants;
- N. whereas EU citizens have broad rights to access documents held by the EU administration; whereas the Ombudsman opened an own-initiative inquiry asking the Commission to urgently deal with systematic delays in its handling of access to document requests in

order to ensure it adheres to the deadlines set out in the EU public access law (Regulation (EC) No 1049/2001¹); whereas this inquiry revealed that when individuals seek a review of an access decision, known as a confirmatory request, the Commission misses the deadlines set out in the law in 85 % of cases, with the majority of replies arriving after 60 days; whereas these delays frequently rendered the information obtained no longer useful for the requesters, preventing them from having a say at relevant times in the decision-making process;

- O. whereas in 2023, the Ombudsman published a special report following her strategic inquiry into the time the European Commission takes to deal with requests for public access to documents; whereas the Ombudsman's Office submitted this report to the European Parliament with a view to seeking its support in persuading the Commission to act on its recommendations, being of the opinion that citizens are entitled to expect better practices from an open, modern and service-minded EU administration;
- P. whereas the special report was discussed in the Parliament's Committee on Civil Liberties, Justice and Home Affairs and led to a European Parliament resolution entitled 'The time the European Commission takes to deal with requests for public access to documents'², adopted on 14 March 2024, in which Parliament expressed great concern about the extreme delays in the Commission's process of granting public access to requested documents and asked the Commission to correct these systematic and significant delays; whereas Parliament pointed out that it would consider using all available parliamentary instruments to address the matter; whereas the resolution also referred to the negotiations on the purchase of COVID-19 vaccines and called for appropriate disclosure by the Commission, for more proactive transparency with more dedicated human resources to deal with confirmatory applications and for a more open and constructive attitude towards requesters;
- Q. whereas the Ombudsman emphasised the need for proper monitoring and enforcement of the implementation of Parliament's new ethics rules;
- R. whereas the Ombudsman acknowledged significant progress in strengthening the ethics rules in Parliament following Qatargate, but expressed concerns about their implementation and enforcement;

¹ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43, ELI: <http://data.europa.eu/eli/reg/2001/1049/oj>).

² OJ C, C/2024/6560, 12.11.2024, ELI: <http://data.europa.eu/eli/C/2024/6560/oj>.

whereas the Ombudsman opened a separate inquiry concerning travel costs paid for the Commission by third parties since 2021;

- S. whereas transparency is a vital part of a democratic society and an important tool in the fight against corruption; whereas EU citizens have the right to the highest level of transparency and whereas the very highest level of accessibility to public documents is essential to ensure accountability;
- T. whereas in 2023, the Ombudsman's Office further raised public awareness of the Ombudsman's role in maintaining high working standards in EU administration and in protecting citizens' rights and fundamental freedoms;
- 1. Approves the annual report for 2023 presented by the European Ombudsman and commends her excellent presentation of the most important facts and figures concerning the Ombudsman's work in 2023;
- 2. Congratulates Emily O'Reilly on her remarkable work and her tireless efforts to support democracy by enhancing the accountability and transparency of the EU institutions, bodies, offices and agencies, and to ensure that the EU administration is responsive to citizens' concerns;
- 3. Expresses its appreciation for the constructive cooperation between the European Ombudsman and the European Parliament, in particular its Committee on Petitions, as well as the other EU institutions;
- 4. Welcomes the Ombudsman's publication of a guide to accessing EU documents, which aims to raise citizens' awareness of their right of access to documents and enable them to scrutinise EU decision-making; believes that it is essential to continue providing citizens with suitable information on the role and scope of the Ombudsman's activities and its influence on the development of the EU institutions;
- 5. Welcomes the recommendations following the Ombudsman's own-initiative inquiry into the time the Commission takes to deal with requests for public access to documents; calls on the Commission to improve the way it handles such requests, to deal with its systemic delays as a matter of urgency and to respect the deadlines set out in Regulation (EC) No 1049/2001 on public access to European Parliament, Council and Commission documents; shares the Ombudsman's view that the documents and information sought are often time-sensitive and can lose relevance to the requesters if delays occur; believes that the Commission must proactively publish documents and statistics on how it handles requests on access to documents, as such information is key to improving transparency on this matter and strengthening the Commission's accountability to citizens; underlines that transparency of the decision-making process

has been the focus of many Ombudsman inquiries, in particular in respect of lobbying;

6. Underlines that public access to documents is a fundamental right of EU citizens and a cornerstone of European democracy; recalls that the technological and societal developments since the adoption of Regulation (EC) No 1049/2001 require its alignment with the new digital context; in this regard, recognises the need to revise this regulation and urges the Council to engage in constructive negotiations with Parliament and the Commission on its revision in order to turn these three key EU institutions into role models of transparency and public accountability for the whole of the EU; strongly believes that any negotiations on the revision of Regulation (EC) No 1049/2001 should be based on the position already adopted by Parliament and that its scope should be extended to all EU institutions, bodies and agencies, thus enhancing the accountability of the decision-making process; recalls, in this context, Parliament's position that 'document' should mean any data content whatever its medium (written on paper or stored in electronic form or as a sound, visual or audiovisual recording) concerning a matter falling within the sphere of responsibility of a Union institution, body, office or agency¹; stresses that it is essential for the institutions to be transparent in their relations with citizens, as also acknowledged by the Ombudsman in her inquiry on the transparency of Trilogues², in which the Ombudsman understood the particular challenges and sensitivities within the EU system of interinstitutional negotiations but invited the institutions to make efforts to overcome such challenges in order to allow the effective exercise by citizens of their democratic rights;
7. Endorses the conclusions of the Ombudsman's special report³ to the European Parliament concerning the time the European Commission takes to deal with requests for public access to documents and is concerned about the Ombudsman's assessment that these systemic and significant delays in the Commission's processing of requests for public access to documents amount to maladministration; underlines how important it is that the Commission dedicate more resources to dealing with confirmatory requests under Regulation (EC) No 1049/2001, as well as the need for more proactive transparency and a more constructive approach

¹ European Parliament legislative resolution of 15 December 2011 on the proposal for a regulation of the European Parliament and of the Council regarding public access to European Parliament, Council and Commission documents (recast), Article 3:
https://www.europarl.europa.eu/doceo/document/TA-7-2011-0580_EN.pdf.

² <https://www.ombudsman.europa.eu/en/decision/en/69206>.

³ Special Report of the European Ombudsman in her strategic inquiry concerning the time the European Commission takes to deal with requests for public access to documents (OI/2/2022/OAM).

to requesters; calls on the Commission to correct this situation as a matter of priority by reforming its management of public access to documents; reminds the Commission of Parliament's right to bring action against it before the Court of Justice of the European Union (CJEU) and expects a clear and unequivocal commitment by the new College of Commissioners to remedy this situation;

8. Takes note of the Ombudsman's inquiry into the extent to which the European Parliament, the Council of the European Union and the European Commission apply EU law and the decisions of the CJEU when it comes to public access requests for legislative documents, in which the Ombudsman stressed the need to ensure timely public access to legislative documents, as well as to facilitate EU citizens' participation in the EU lawmaking process; acknowledges the importance of the timely treatment of access to document requests by all institutions in fostering a sense of trust in the EU legislative process, which is based on the main principles of transparency and public access to information, as confirmed by CJEU case-law; recalls that according to CJEU case-law, EU institutions can only refuse to disclose legislative documents in exceptional circumstances and their reasoning for doing so must be based on specific and tangible facts;
9. Notes the intention of the Ombudsman to conduct a broader inquiry into how the scope of environmental information and information related to emissions into the environment is interpreted by the Commission; is particularly worried that the Ombudsman found maladministration in the Commission's refusal to provide access to documents concerning the greenhouse gas emissions of the ceramics industry reported under the EU Emissions Trading System; regrets that the Commission rejected the Ombudsman's proposed solution and failed to ensure the required transparency as well as to give full effect to Regulation (EC) No 1367/2006 of the European Parliament and of the Council of 6 September 2006 on the application of the provisions of the Aarhus Convention on Access to Information, Public Participation in Decision-making and Access to Justice in Environmental Matters to Community institutions and bodies¹ and to the Aarhus Convention; calls on the Commission to guarantee public access to environmental information, in line with EU law and related CJEU case-law, and to promote public participation in decision-making relating to the environment; is concerned that the Commission's refusal to provide access to all documents requested concerning the greenhouse gas emissions reported under the EU Emissions Trading System extends to further industrial facilities beyond the ceramics industry and calls on the Ombudsman to continue raising awareness on the findings of the investigations with a view to increasing transparency; recalls that a considerable

¹ OJ L 264, 25.9.2006, p. 13,
ELI: <http://data.europa.eu/eli/reg/2006/1367/oj>.

number of petitions to the European Parliament concern the lack of or limited access to environmental information;

10. Calls on the Council to allow full public access to the legal opinion on Directive (EU) 2022/2041 of the European Parliament and of the Council of 19 October 2022¹ on adequate minimum wages in the European Union, as recommended by the Ombudsman, who found evidence of maladministration in this matter;
11. Supports the Ombudsman in her efforts to further contribute to the clarification of what constitutes an EU document and stresses that the EU institutions should follow the Ombudsman's recommendations in order to adapt their administrative practices to take into account evolving means of communication; underlines that citizens' right to public access to information applies to written physical and electronic documents, as well as to audio and audiovisual recordings related to policies, activities and decisions of the EU institutions, and recalls that work-related text messages and instant messages are considered 'documents' under Regulation (EC) No 1049/2001; regrets the cases where the Commission failed to grant public access to documents in the form of emails or text messages, such as those regarding the draft EU soil, forest and climate-adaptation strategies or exchanges between the Commission President and the CEO of a pharmaceutical company in relation to the purchase of COVID-19 vaccines;
12. Appreciates the Ombudsman's commitment to upholding fundamental rights in migration-related actions; notes that the Ombudsman asked for further clarification from the Commission as to how it intends to guarantee respect for human rights in the context of the EU-Tunisia Memorandum of Understanding, in an effort to ensure that the EU complies with its human rights obligations; stresses that all EU institutions, bodies and agencies have an obligation to respect human rights and fundamental freedoms as outlined in the Treaties and the Charter;
13. Notes the Commission's decision to work with national and local authorities to draw up a fundamental rights impact assessment of EU-funded migration management facilities, following a relevant own-initiative inquiry by the Ombudsman;
14. Welcomes the Ombudsman's inquiries following the Qatargate scandal in Parliament; strongly supports the Ombudsman's conclusions that the EU's ethical and anti-corruption rules need to be respected and strengthened by the EU institutions and that Parliament's implementation of reforms in this area must be properly monitored and enforced at all levels; highlights the need for

¹ OJ L 275, 25.10.2022, p. 33,
ELI: <http://data.europa.eu/eli/dir/2022/2041/oj>.

Parliament and the Commission always to pay close attention to direct and indirect lobbying activities in order to identify gaps and weaknesses that may compromise transparency and accountability and increase the risk of potential conflicts of interest; welcomes the significant progress made on the current Code of Conduct for Members of the European Parliament regarding integrity and transparency, and encourages the Ombudsman to continue, where appropriate, monitoring the implementation process thereof; underlines that ethics rules have to be rigorously followed in order to strengthen citizens' confidence in the European institutions;

15. Emphasises the essential role of transparency, good administration and institutional checks and balances in the work of the EU institutions;
16. Takes note of the Ombudsman's investigations into risks of conflicts of interest in the Commission, especially in the area of the European Defence Fund (EDF), including the fact that the Commission is not required to make public the names of the experts it consults on EDF-related projects; in this context, points to the Ombudsman's suggestion that the Commission should proactively publish the declarations of interest made by the members of the Regulatory Scrutiny Board and, if needed, amend the relevant rules governing the Board;
17. Takes note of the Ombudsman's call on the European Investment Bank (EIB) to improve its rules on conflicts of interest and to strengthen the oversight role of its Ethics and Compliance Committee, following the move of its vice-president to become the CEO of a national promotional bank; encourages the Ombudsman, in this regard, to continue focusing on the issue of cooling-off periods and revolving door moves by senior staff members from all EU institutions, agencies and bodies in order to ensure the highest ethical standards of transparency and public accountability;
18. Welcomes the Commission's changes to its internal guidance on public procurement, positively assessed by the Ombudsman's inquiry, which strengthen its handling of potential professional conflicts of interest in calls for tender;
19. Encourages the Commission to step up its efforts to increase transparency with regard to the Recovery and Resilience Facility (RRF) and invites the Commission to improve its handling of requests for public access to RRF-related documents and to continue publishing preliminary assessments of Member States' payment requests;
20. Welcomes the Ombudsman's decision to open an own-initiative inquiry into the Commission's delays related to risk management of dangerous chemicals, the aim of which is to examine delays in

introducing restrictions to mitigate the risks of specific chemicals and in placing chemicals on the list of substances where use is subject to prior authorisation;

21. Is worried that the Ombudsman identified several transparency concerns in the Commission's interactions with the tobacco industry; notes, however, that the Commission committed to further assessing the exposure of its departments to lobbying by the tobacco industry; reminds the Commission that the EU and all its Member States are signatories to the World Health Organization's Framework Convention on Tobacco Control and that they are therefore obliged, in setting and implementing their public health policies with respect to tobacco control, to take action to protect these policies from commercial and other vested interests of the tobacco industry;
22. Recalls the imperative obligation of the EU institutions to secure the services of independent and well-qualified officials recruited in an open manner and with due geographical balance between nationalities and languages; points out that the Ombudsman conducted an inquiry into how the European Personnel Selection Office (EPSO) carried out 'pre-selection' tests as part of a procedure to recruit new staff into the EU civil service, and identified issues concerning the organisation of tests which are exclusively carried out remotely; calls on EPSO to improve its recruitment procedures by ensuring that technical requirements do not disadvantage certain candidates and to provide clear information to candidates; is of the opinion that candidates should be given the option, if they so choose, to participate in these tests while physically present at a test centre, as was common practice prior to the COVID-19 pandemic;
23. Welcomes the fact that, in 2023, the Office of the European Ombudsman continued to publicise its role and promote its work to the widest possible audience and participated in the European Youth Event (EYE2023); stresses the importance of the discussion organised by the Ombudsman with the participation of the Commission and Parliament on compliance with the integrity framework of the EU administration;
24. Welcomes the Ombudsman's inquiries following complaints by persons with disabilities, and encourages her work as an active participant in the EU Framework for the UN CRPD; highlights the importance of the Ombudsman's commitment to monitor the EU administration's implementation of the UN CRPD and calls for all EU institutions to pay the utmost attention to the recommendations of the Ombudsman in the inquiries related to the rights of persons with disabilities; appreciates the Ombudsman's chairmanship in 2023 of the EU Framework for the UN CRPD and her continuous work as a member of that framework;

25. Stresses that the 'European Accessibility Act'¹ was adopted on 17 April 2019 and that the deadline set out in it for its transposition by Member States was 28 June 2022; underlines that the main scope of the European Accessibility Act was to make life easier for at least 87 million persons with disabilities, facilitating their access to, among other things, public transport, banking services, computers, televisions, e-books and online shops; strongly regrets that all Member States are still failing to ensure its full and consistent transposition and keep accumulating delays, as confirmed by the ongoing infringement proceedings launched against all of them by the Commission; calls on the Ombudsman to raise this very serious violation of EU law, which severely undermines the rights of persons with disabilities, as part of the overall activities carried out within the EU framework for the UN CRPD, in order to help resolve it as a matter of priority;
26. Welcomes the Ombudsman's inquiry into how the Commission applies the rule under the EU Staff Regulations concerning the doubling of the child allowance to assist with care of children with disabilities; welcomes the Commission's initiative, in this regard, to proceed for the whole EU administration to revise the applicable rules in order to ensure an individual substantive assessment of all applications for this type of allowance;
27. Stresses the importance of the European Network of Ombudsmen (ENO) and the annual meetings hosted with national and regional ombudsmen through the ENO in further raising awareness of what the European Ombudsman can do for European citizens; encourages the Ombudsman to continue to take part in exchanges of experience and best practice with national ombudsmen through the ENO; takes note of the fact that the 2023 ENO annual conference focused on the protection of human rights and addressing the benefits and potential drawbacks of the use of AI in public administration; encourages civil society organisations to better use the services of the European Ombudsman for carrying out scrutiny of the EU institutions, guaranteeing transparency and handling cases of non-compliance with Union law; welcomes the joining of ENO by the Institution of the Human Rights Ombudsman of Bosnia and Herzegovina; calls on the Ombudsman to strengthen cooperation with the national ombudsmen's offices of EU candidate countries in order to enhance the capacity of those countries' public authorities to align themselves with EU standards in terms of good administration, integrity and accountability;

¹ Directive (EU) 2019/882 of the European Parliament and of the Council of 17 April 2019 on the accessibility requirements for products and services (OJ L 151, 7.6.2019, p. 70, ELI: <http://data.europa.eu/eli/dir/2019/882/oj>).

28. Calls for the continuation of the close cooperation between the Ombudsman and the European Parliament's Committee on Petitions, which have the shared mission of bringing the EU institutions closer to citizens; expresses its great appreciation for the attention and follow-up that the Ombudsman affords to all complaints, including the referral of complaints, falling outside her remit, concerning the implementation of EU legislation to another relevant authority or to Parliament's Committee on Petitions; encourages the Ombudsman's Office to continue its efforts to that end, given that cooperation with the Committee on Petitions, timely information and access to documents in all 24 official EU languages may increase the effective participation of citizens and civil society in the decision-making process;
29. Appreciates that the acceptance rate for 2023 by the EU institutions, namely the percentage of positive replies to the total number of proposals made by the Ombudsman to correct or improve their administrative practices, stood at 81 %, representing an improvement on the previous year; strongly believes, however, that the Union institutions, agencies, bodies and offices must fully and consistently comply with all of the Ombudsman's solutions, recommendations and suggestions;
30. Praises the Ombudsman for her continuous constructive working relationship with the Commission, which is the EU institution affected by the majority of the Ombudsman's inquiries; notes that this relationship helps the Commission make its administrative procedures more efficient and more transparent;
31. Appreciates and welcomes the efforts of the Ombudsman and her office to constantly improve their internal procedures to ensure that complainants have an optimal experience and that complaints are dealt with as efficiently as possible; encourages the Ombudsman's efforts to further improve the visibility of her activities and welcomes the improvements to the Ombudsman's online complaint system, which have made it more user-friendly; welcomes the Ombudsman's multilingual website, which reflects the Ombudsman's commitment to offer assistance in the 24 official languages of the EU; emphasises the significance of guaranteeing full access for disabled persons to the whole range of resources provided by the EU to its citizens, especially through systematic translation and interpretation services offered in all official languages, including sign language;
32. 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 their ombudsmen or similar competent bodies.