



TEXTS ADOPTED

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Activities of the European Ombudsman - annual report 2022

European Parliament resolution of 17 January 2024 on the annual report on the activities of the European Ombudsman in 2022 (2023/2120(INI))

The European Parliament,

- having regard to the annual report on the activities of the European Ombudsman in 2022,
- 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 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 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 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.

- having regard to its previous resolutions on the European Ombudsman's activities,
 - having regard to Rules 54 and 142(2) of its Rules of Procedure,
 - having regard to the report of the Committee on Petitions (A9-0414/2023),
- A. whereas the annual report on the activities of the European Ombudsman in 2022 was formally submitted to the President of Parliament on 28 April 2023 and the Ombudsman, Ms Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 27 June 2023;
 - 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'; whereas ensuring that high-quality services are provided to EU citizens and that the EU administration is responsive to their needs and concerns is crucial in protecting citizens' rights and fundamental freedoms;
 - D. whereas Article 41 of the Charter on the right to good administration 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 establishes 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 in 2022, the Ombudsman opened 348 inquiries, of which 344 were complaint-based and 4 own-initiative, while closing 330 inquiries (325 complaint-based and 5 own-initiative);
- H. whereas in 2022, the vast majority of the inquiries concerned the Commission (197 inquiries or 57,1 %), while the next largest numbers concerned the European Personnel Selection Office (22 inquiries or 6,3 %), the European Parliament (19 inquiries or 5,5 %), and the European External Action Service (16 inquiries or 4,6 %); whereas the remaining inquiries were distributed as follows: the European Border and Coast Guard Agency (Frontex) (14 inquiries or 4,3 %), the European Union Aviation Safety Agency (7 inquiries or 2 %), other EU institutions or bodies (46 inquiries or 13,5 %), and other EU agencies (23 inquiries or 6,7 %);
- I. whereas in 2022, the largest percentage of the Ombudsman's inquiries concerned the Commission, whose administrative activities receive considerable public attention, given that it is the EU executive;
- J. whereas in the inquiries closed by the Ombudsman in 2022, no maladministration was found in 37 % of cases, a solution was settled by the institution in 46,1 % of cases, no further inquiries were justified in 12,7 % of cases and maladministration was found in 4,5 % of cases;
- K. whereas the top three concerns in the inquiries closed by the Ombudsman in 2022 were transparency and accountability (e.g. access to information and documents) (32 %), culture of service (20 %) and respect for fundamental rights (15 %); whereas other concerns included proper use of discretion (including in infringement procedures), recruitment, good management of personnel issues, respect for procedural rights, proper management of infringement procedures, sound financial management, ethics and public participation in EU decision-making;
- L. whereas in 2022, the Ombudsman asked the Council to grant faster access to legislative documents so that the public can effectively participate in discussions on draft EU laws¹;

¹ European Ombudsman, '[Council should give faster public access to legislative documents](#)', 29 June 2022.

- M. whereas the Ombudsman found maladministration^{1, 2} in how the Commission handled a public access request for text messages between its President and the CEO of a pharmaceutical company (Pfizer);
- N. whereas in 2022, the Ombudsman opened an inquiry into how the European Central Bank (ECB) handles ‘revolving doors’³;
- O. whereas the Ombudsman opened a strategic inquiry into the systemic and significant delays in how the Commission handles requests for public access to documents; whereas the Ombudsman found maladministration in the Commission's way of handling such requests, notably in dealing with requests to review initial decisions (‘confirmatory applications’)⁴;
- P. whereas in 2022, the Ombudsman also conducted wider strategic inquiries and initiatives into systemic issues in the EU institutions, covering ethical issues, ‘revolving doors’ moves, accountability in decision-making, access to documents and fundamental rights;
- Q. whereas in 2022, the Ombudsman issued a recommendation to the Council to grant full public access to the requested legislative documents, following an inquiry into the Council’s refusal to do so in the context of negotiations on the draft ‘Digital Markets Act’, following which the Ombudsman concluded that there was maladministration;
- R. whereas in 2022, the Ombudsman’s Office further raised public awareness of the Ombudsman’s role in maintaining high accountability and transparency standards in EU administration;
- S. whereas the Ombudsman decided to launch a public consultation on transparency and participation in EU decision-making related to the environment, in the light of the climate emergency and environmental and ecosystem degradation, with a view to assessing the EU's approach, as a party to the Aarhus Convention, in ensuring

¹ European Ombudsman, ‘[Decision on the European Commission's refusal of public access to text messages exchanged between the Commission President and the CEO of a pharmaceutical company on the purchase of a COVID 19 vaccine \(case 1316/2021/MIG\)](#)’, 12 July 2022.

² European Ombudsman, ‘[Ombudsman criticises how Commission handled request for access to President’s text messages](#)’, 28 January 2022.

³ European Ombudsman, ‘[Ombudsman opens inquiry into how ECB handles “revolving doors”](#)’, 3 March 2022.

⁴ European Ombudsman, ‘[Decision on the time the European Commission takes to deal with requests for public access to documents \(strategic inquiry OI/2/2022/OAM\)](#)’, 18 September 2023.

a high level of public access to environmental information and public participation in decision-making relating to the environment;

- T. whereas in 2022, the Ombudsman urged the Commission to treat access to document requests concerning EU recovery funds with greater consistency and to better explain its reasoning when deciding not to release the asked-for information¹;
 - U. whereas in 2022, the Ombudsman opened an inquiry into the Commission's refusal to give public access to documents related to its proposal for a regulation on the European Health Data Space²;
 - V. whereas in 2022, the Ombudsman opened an inquiry into how the Commission dealt with a request for public access to declarations of interests from the members of its Regulatory Scrutiny Board³;
 - W. whereas the Ombudsman has underlined that the EU rules on public procurement are not robust or clear enough to prevent conflicts of interest and has criticised the Commission for its insufficient critical scrutiny before awarding a contract to carry out a study on integrating environmental, social and governance objectives into EU banking rules to BlackRock Investment Management, a company that manages investments in the fossil fuel and banking sectors, which are areas that fall under the new environmental, social and governance rules;
1. Approves the annual report for 2022 presented by the European Ombudsman;
 2. Congratulates Emily O'Reilly on her good work and her continuous efforts to improve administrative practices and to promote accountability and full transparency of the EU institutions, bodies, offices and agencies, as well as to ensure accessibility of EU documents for EU citizens;
 3. Expresses its appreciation for the continued constructive cooperation of the European Ombudsman with the European Parliament, and notably with the Committee on Petitions, as well as

¹ European Ombudsman, '[Ombudsman calls for improved transparency around EU recovery funds](#)', 1 December 2022.

² European Ombudsman, '[The European Commission's refusal to give public access to documents related to its proposal for a Regulation on the European Health Data Space \(COM\(2022\) 197 final\)](#)', inquiry opened on 28 November 2022.

³ European Ombudsman, '[How the European Commission dealt with a request for public access to declarations of interests of the members of its Regulatory Scrutiny Board](#)', decision issued on 20 December 2022.

with other EU institutions; reiterates its commitment to support the Ombudsman in the performance of her duties;

4. Congratulates the Ombudsman's Office for the significant improvement in its efficiency rate for the length of inquiry for closed cases, which improved from 13 months on average in 2013 to less than 6 months on average in 2022; underlines that the achieved results cover several areas of EU administration with limited resources;
5. Calls on the Council to fully comply with the transparency standards of a parliamentary and participatory democracy, as required under the Treaties and requested by the Ombudsman; recalls that the Court of Justice of the EU stipulated that the principles of publicity and transparency are inherent to the EU legislative process and that the lack of transparency and information weakens citizens' trust in the legitimacy of the EU legislative process as a whole;
6. Calls on the Council to grant citizens timely access to its legislative documents during ongoing legislative procedures in order to fully uphold citizens' Treaty-based right to participate in the democratic life of the Union, which would in turn enhance citizens' trust in the overall EU decision-making process;
7. Welcomes the opening of the own-initiative inquiry to assess how the Commission ensures that its interactions with tobacco industry representatives are transparent; underlines that the failure of the Commission as a whole to proactively publish details of its meetings with tobacco lobbyists amounted to maladministration, as indicated by the Ombudsman in her preliminary findings; recalls that the EU signed and formally confirmed the World Health Organization's Framework Convention on Tobacco Control and is obliged to comply with its provisions establishing that interactions with the tobacco industry should take place only when strictly necessary from a regulatory point of view, as well as to make those interactions transparent, in order to prevent the tobacco industry from having a negative impact on public health policies;
8. Considers it paramount that the Ombudsman launch an investigation to assess the level of independence of the EU Energy Platform Industry Advisory Group set up by the Commission;
9. Endorses the result of the Ombudsman's examination of how the Commission ensures that external experts involved in evaluating project proposals under the European Defence Fund do not have conflicts of interest; underlines the paramount importance of carrying out a thorough assessment of conflicts of interest before appointing experts and of making sure that transparency and ethics obligations are robustly implemented;

10. Welcomes the Commission's proposal, in response to the Ombudsman's findings following her inquiry into the BlackRock case, to amend the Financial Regulation to include the option to reject tenderers if they have a conflict of interest; calls on the Commission to comply fully with the Ombudsman's suggestions by adopting strengthened and clearer rules aimed at preventing any conflicts of interest in all procedures related to public procurement, including for its internal guidelines;
11. Highlights the fact that, following an inquiry by the Ombudsman into the phenomenon of 'revolving doors', the Commission is improving its handling of the issue and requests information from former staff on how they are complying with relevant restrictions; notes the faster publishing by the Commission of an annual overview of senior staff members requesting permission to move to new employment, and its assessment of these requests; underlines that the Commission should not grant any authorisation where the concerned employment cannot be made subject to restrictions that adequately mitigate the risks of conflicts of interest or where those restrictions cannot be credibly monitored and enforced, including the obligation for the new employer to make the restrictions public; believes that the Commission should publish information in a timely manner on all post-service activities of senior former staff members that it assesses, thus improving public scrutiny of these decisions, which is essential for monitoring purposes; welcomes the fact that staff on unpaid leave are forbidden from taking employment in areas where there is a risk of conflict of interest; encourages the Ombudsman to monitor the Commission's handling of these issues;
12. Welcomes the own-initiative inquiry opened by the Ombudsman to assess how the ECB manages the issue of 'revolving doors' and endorses the call of the Ombudsman to the ECB to apply stricter rules governing staff moves to the private sector; supports the recommendation that ECB staff should be subject to strict cooling-off requirements and that the period during which former ECB staff are banned from lobbying their former colleagues should be increased;
13. Underlines that Qatargate shed a new light on lobbying and policymaking in the EU; acknowledges the Ombudsman's critical assessment of the scandal and welcomes the development of new measures designed at improving the integrity standards within the European Parliament to safeguard EU democracy; considers these actions as an important first step to enhance the EU regulatory framework, as they aim to foster higher ethics and anti-corruption standards and thereby make the EU institutions examples of integrity and accountability;
14. Welcomes the continuous efforts of the Ombudsman to improve lobbying transparency and ethics, in particular by requiring the Commission to strengthen the Code of Conduct for Commissioners,

create a public record of meetings between Commissioners and lobbyists and proactively publish Commissioners' travel expenses;

15. Underlines that the participation of citizens in EU decision-making is important for its legitimacy; appreciates the Ombudsman's commitment to foster accountability in EU decision-making, especially in the area of environmental decisions; welcomes and supports the Ombudsman's requests to the European Investment Bank (EIB) to take several transparency steps to enable the public to more easily see the potential environmental impact of the projects it finances, as well as the Ombudsman's intention to step up her scrutiny of the EIB's activities, in the light of the EIB's insufficient follow-up to date, in particular regarding the timely publishing of information about projects related to the environment and EIB finances in order to give sufficient time to the public to raise concerns;
16. Commends the Ombudsman's work in prioritising her assessment of the transparency of EU environmental decision-making, following, inter alia, her finding of maladministration in the Commission's failure to consider properly the environmental impact of the EU-Mercosur trade agreement before concluding negotiation, the Commission's severe shortcomings in handling requests on public access to environmental information and the lack of clear rules to ensure that experts the Commission consults, in the context of environmental policymaking, are not subject to conflicts of interest;
17. Underlines that the Ombudsman found regrettable the fact that proactive transparency mainly happened only after the national plans under the Recovery and Resilience Facility (RRF) had already been approved, thus preventing the public from adequately following the negotiations; is concerned about the lengthy delays that the Commission has been incurring in dealing with requests for public access to RRF-related documents, in some cases taking one year or more; urges the Commission to encourage the Member States to use a public portal to list all recipients of funding under the RRF, to continue publishing its preliminary assessments of Member States' payment requests and to inform the public with concrete details about its supervisory and audit work in order to ensure meaningful accountability for all funds spent, welcomes the publication by the Organisation for Economic Cooperation and Development, in collaboration with the European Ombudsman's Office, of the policy paper entitled 'Towards good practice principles for government transparency in the use of recovery funds', which provides guidance to governments on ensuring transparency and accountability in the use of COVID-19 recovery funds, welcomes, in this regard, the Ombudsman's efforts to improve the transparency standards related to the RRF;

18. Highlights that in her strategic initiative concerning how the Commission ensured transparency and balanced interest representation under the common agricultural policy (CAP), the Ombudsman found that key elements of the CAP national strategic plans, including specific measures on budget items and milestones to be fulfilled, were missing, thus making it difficult for citizens and interested parties to understand the conditions under which Member States could use the assistance provided by the new CAP; supports the Ombudsman's call on the Commission to proactively disclose more information concerning the approval of Member States' strategic plans under the CAP; asks the Commissioner for Agriculture and his cabinet, as well as the Commission's Directorate-General for Agriculture and Rural Development, to comply with the Ombudsman's recommendations and seek a fair and balanced representation of the interests of both farmers and civil society in its meetings and exchanges with interest representatives, given that, as pointed out by the Ombudsman in her letter of February 2022, the Commissioner for Agriculture and his cabinet held more meetings with industry representatives than with environmental organisations and other organisations like research institutions; requests that the Commission assume an active role in securing compliance with the transparency obligations imposed on the Member States, including the obligation to disclose the broader entities that beneficiaries of funds belong to and the obligation to publish the total amount of payments received by a beneficiary, with a view to guaranteeing that the public has access to all necessary information about beneficiaries of CAP funding;
19. Regrets that the Commission's approach to setting up civil dialogue groups for matters covered by the CAP did not comply with the Ombudsman's recommendations and had several gaps, in particular a failure to transparently and clearly implement a balanced representation between economic and non-economic interests in the composition of the groups;
20. Emphasises the importance for all institutions of treating access to documents requests in a timely manner, so that the relevance of the information is preserved; supports the Ombudsman's special report in her strategic inquiry concerning the time the Commission takes to deal with requests for public access to documents¹; is concerned about the Commission's systemic and significant delays in processing such requests; underlines that public access to documents is a fundamental right under Regulation 1049/2001²; urges the

¹ European Ombudsman, '[Ombudsman opens inquiry into time taken by Commission to deal with access to documents requests](#)', 6 April 2022.

² Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European

Commission to improve its administrative practices in order to respect the timelines set out by the legislator and to clearly and proactively demonstrate that transparency is the rule and a priority in its handling of requests for public access to documents; stresses the need for the EU institutions to dedicate sufficient human resources to improving efficiency in the handling of access to documents requests; recalls that the Ombudsman recommended a fundamental restructuring of the Commission's approach to processing access to document requests;

21. Acknowledges the Ombudsman's inquiry into the Commission's failure to identify and therefore to assess the potential disclosure of the text messages exchanged between the Commission President and the CEO of a pharmaceutical company on the purchase of a COVID-19 vaccine; is worried that the Commission's approach constituted maladministration; underlines that work-related text and instant messages are 'documents' under Regulation 1049/2001 and stresses that respecting this principle is of particular importance; welcomes the Ombudsman's recommendations for the EU administration on the recording of work-related text and instant messages; stresses the importance for the EU institutions of fully complying with these recommendations in order to bring the practices of the EU administration into line with modern communication methods; takes note of the Commission's response that it will issue further guidance on modern communication tools such as text messages;
22. Calls on the Council to learn a lesson from the Ombudsman's inquiry into its refusal to give full public access to documents related to negotiations on the draft 'Digital Markets Act', which, in 2022, resulted in the Ombudsman's conclusion that there was maladministration; calls on the Council to apply the highest standards of transparency in these cases, especially when the Ombudsman has already identified problems in previous strategic inquiries concerning the transparency of its legislative process and its decision-making during the COVID-19 crisis; recalls that transparency is one of the key principles set out in the EU Treaties and that a lack of transparency risks diminishing citizens' trust in the European institutions and the EU as a whole;
23. Stresses the importance of the Ombudsman's investigations into human rights compliance by the EU administration; supports the Ombudsman's call for the Commission to set up a new and separate complaint handling portal for alleged human rights abuses, and to make it accessible for human rights-related complaints by civil society organisations and other stakeholders in countries with which the EU has trade deals;

24. Points out that the Ombudsman conducted a strategic inquiry into how Frontex complies with its fundamental rights and transparency obligations under its expanded mandate under Regulation 2019/1896¹, stresses the importance of applying high transparency standards to allow for public scrutiny and of ensuring full respect for fundamental rights in all of Frontex's operations to improve its accountability; calls on Frontex to ensure an adequate follow-up to the recommendations issued by the Ombudsman;
25. Notes the Ombudsman's inquiry into the Commission's system monitoring the Croatian authorities' respect for fundamental rights in the context of border management operations supported by EU funds, in the conclusion of which the Ombudsman criticised the Commission for its delay in setting up an appropriate monitoring mechanism for border management by the Croatian authorities; urges the Commission to always react promptly to the Ombudsman's suggestions for improvement, in particular in cases like this one, when significant shortcomings are identified;
26. Welcomes the fact that, on the basis of the Ombudsman's practical recommendations on the use of official languages when communicating with the public, the network of EU agencies agreed on the guidelines on multilingual policies;
27. Takes note that in 2022, the Statute of the European Ombudsman was updated with implementing provisions detailing the working procedures of the Ombudsman's Office; believes that the new provisions will contribute to improving the Ombudsman's work;
28. Welcomes the Ombudsman's commitment to monitor the EU administration's implementation of the UN CRPD; appreciates the Ombudsman's work as a member of the EU Framework for the UN CRPD;
29. Underlines the results of the Ombudsman's own-initiative inquiry into how the Commission monitors EU Structural and Investment Funds to ensure that funds are used to strengthen the rights of persons with disabilities to independent living and inclusion; welcomes the suggestion of clearer guidance about the need to promote deinstitutionalisation in the context of the use of EU Structural and Investment Funds;
30. Encourages the Ombudsman to continue the exchanges on experiences and best practices with national ombudsmen through the European Network of Ombudsmen (ENO); appreciates that the 2022 ENO annual conference focused on best practices for helping

¹ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

refugees and addressed the effects of the digitalisation of public services on citizens' rights; commends the addition of the Ukrainian and Moldovan ombudsman's offices to the ENO;

31. Welcomes the Ombudsman's continuous efforts to further improve the visibility of its activities, including via online tools and the multilingual website offering assistance in all 24 official languages of the EU;
32. Welcomes the fruitful, long-standing dialogue between the Ombudsman and the European Parliament's Committee on Petitions; underlines that the intensive collaboration between these two bodies helps to increase the democratic accountability of the EU institutions and bring them closer to citizens;
33. 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.