

# Statute of the European Ombudsman

2006/2223(INL) - 07/05/2008 - Document attached to the procedure

## **COMMISSION OPINION on the Draft Decision of the European Parliament adopted on 22 April 2008 amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties.**

At its plenary session of 22 April 2008, the European Parliament adopted seven amendments to the Statute of the Ombudsman, on the basis of the Ombudsman's requests.

The Commission can agree to the amendments relating to the European Coal and Steel Community, which are of purely formal nature. The Commission can also agree to the amendment relating to hearing of witnesses, which confirms the principle whereby officials do not speak on a personal basis but as officials and thus continue to be bound by the relevant provisions of the Staff Regulations, in particular the duty of professional secrecy.

The Commission broadly shares the principles adopted by the European Parliament subject to the following comments:

**Access to files:** the Commission shares Parliament's concern for enhancing the citizen's confidence in the capacity of the Ombudsman to conduct thorough and impartial inquiries in alleged cases of maladministration. With this aim in view, and considering the rules on public access to documents of the three Institutions and of security governing the treatment of classified information applicable to the Commission and the Council, a better definition is necessary of the conditions applicable for having access to classified information and to other information covered by the obligation of professional secrecy. The Commission also shares Parliament's view that the Ombudsman may agree with the institutions the operational conditions for access to information or documents.

**Information concerning possible criminal activity:** the Commission shares Parliament's views according to which the Statute should include the possibility for the Ombudsman to notify the European Anti-Fraud Office (OLAF) of any information falling within its remit. However, the Commission would be in favour of an alternative and more precise wording, specifying that the Ombudsman should immediately notify the competent national authorities via the Permanent Representations of the Member States or the Community service in charge of combating fraud, in cases falling within its mandate.

**Co-operation in the field of human rights:** the Commission can not agree with the amendment concerning the cooperation in the field of fundamental rights in its current form, but it would be open to a wording, which would not create the impression of widening the competence of the Ombudsman as defined in the Treaties or impinging on the Commission's institutional prerogatives.