Regulations and general conditions governing the performance of the Ombudsman’s duties

2018/2080(INL) - 12/02/2019 - Text adopted by Parliament, single reading

The European Parliament adopted by 573 votes to 29, with 66 absntentions, a resolution on 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, Euratom (Initiative – Rule 45 of the Rules of Procedure).

Article 228(4) TFEU enables the European Parliament, after seeking an opinion from the Commission and with the consent of the Council, to adopt regulations laying down the regulations and general conditions governing the performance of the Ombudsman’s duties. Parliament considered it desirable to repeal Decision 94/262/ECSC, EC, Euratom and replace it by a Regulation in accordance with the legal basis currently applicable.

The draft regulation should, inter alia:

- establish the conditions under which a complaint may be referred to the Ombudsman on the principle of full, free and easy access;

- lay down the procedures to be followed where the Ombudsman's inquiries reveal cases of maladministration. A provision should also be made for the submission of a comprehensive report by the Ombudsman to the European Parliament at the end of each annual session;

- allow the Ombudsman, without prejudice to her primary duty, which is to handle complaints, to conduct own-initiative inquiries with a view to identifying repeated instances of maladministration and promoting best administrative practices within the Union institutions, bodies, offices and agencies;

- enable the Ombudsman, on her own initiative or following a complaint, to : (i) conduct inquiries following up previous inquiries so as to ascertain whether and to what extent the institution, body, office or agency concerned has complied with the recommendations put forward; (ii) include in its annual report to the European Parliament an assessment of the rate of compliance with recommendations made; (iii) open new inquiries on the basis of information provided by whistleblowers, who may provide such information in a confidential and anonymous manner;

- provide that Union institutions, bodies, offices and agencies are obliged to supply the Ombudsman with any information that the Ombudsman requests of them. Access to classified information or documents should be subject to compliance with the rules on the processing of confidential information by the institution or agency concerned; the Ombudsman should have agreed in advance with the institution, body, office or agency concerned the conditions for treatment of classified information or documents and of other information covered by the obligation of professional secrecy;

- oblige the Ombudsman and her staff to treat in confidence any information which they have acquired in the course of their duties;

- allow the Ombudsman to communicate to the European Public Prosecutor's Office any information within its competence;

- provide for the possibility of cooperation between the Ombudsman and the authorities of the same type in Member States, in compliance with the national laws applicable.

The Ombudsman's duties should be performed with complete independence. She should give a solemn undertaking before the Court of Justice when taking office. The incompatibilities, the remuneration, the privileges and the immunities of the Ombudsman should be laid down. It is for the European Parliament to appoint the Ombudsman at the beginning of the parliamentary term and for the duration thereof, choosing the Ombudsman from among persons who are Union citizens and who offer every requisite guarantee of independence and competence.

Lastly, the Ombudsman shall be awarded an adequate budget, sufficient to ensure the Ombudsman's independence and to provide for the performance of the duties.