

Consultation on European Ombudsman Implementing Provisions

2022/0903(NLE) - 15/02/2023 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 634 votes to 2, with 2 abstentions, a legislative resolution on the draft implementing provisions for the Statute of the European Ombudsman.

As a reminder, Article 18 of Regulation (EU, Euratom) 2021/1163 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, stipulates that the Ombudsman should adopt the implementing provisions for this Regulation, after consultation of the European Parliament, the Council and the European Commission. This Article also stipulates that those implementing rules shall, as a minimum, include provisions on (a) procedural rights of the complainant and the Union institution, body, office or agency concerned; (b) receipt, processing and closure of complaints; (c) own-initiative inquiries; and (d) follow-up inquiries.

The implementing provisions currently in force date back to 2016 and are based on the previous Statute of the European Ombudsman. Those provisions were adopted by the European Ombudsman alone, without consultation of the three institutions.

The draft implementing provisions submitted to the three institutions are based on the implementing provisions currently in force, with some modifications to adapt them to the provisions of the new Statute.

Parliament approved the draft implementing provisions subject to amendments to better align a number of provisions with the provisions of the Statute as well as ensuring transparency.

Treatment of complaints

Members proposed deleting the provision stating that the Ombudsman shall treat a petition falling within the Ombudsman's duties, which is transferred by the European Parliament with the consent of the petitioner, as a complaint.

The Ombudsman should handle complaints in any official and working language of the institutions of the Union. It should communicate with the complainant in the language of the complaint, unless the complainant accepts to receive communications in another official and working language of the Union.

It is proposed to add some references to ensure transparency. The resolution states that the Ombudsman:

- may take steps to ensure that a complaint is dealt with as a matter of priority, taking into account the **strategic work topics** defined by the Ombudsman in the annual report or the particular nature of a complaint, including in areas such as whistleblowing and harassment;

- deals with abusive communications and complaints that amount to an abuse of process in accordance with guidelines adopted for that purpose. Those **guidelines** should be published on the website of the Ombudsman.

If the Ombudsman considers that a complaint can be resolved, the Ombudsman should seek a solution with the institution concerned to eliminate the instance of maladministration and thereby resolve the complaint.

Where the Ombudsman finds no maladministration, a solution has been found or no further inquiries are justified, the inquiry should be closed with a decision setting out findings. In the decision closing the inquiry, the Ombudsman may suggest improvements regarding issues identified in the course of the inquiry.

Own-initiative inquiries and follow-up inquiries

The Ombudsman should conduct own-initiative inquiries for which the Ombudsman finds grounds. The resolution specifies that the Ombudsman may also contact the institutions in writing, in order to raise awareness, share observations or gather information about administrative practices. Within the limits of his duties, the Ombudsman may decide to conduct own-initiative inquiries also following such contacts with the institutions.

The procedures applicable to inquiries opened following a complaint should apply to own-initiative inquiries to the extent that they are relevant to those inquiries.

Protection of complainants

In cases where the Ombudsman is asked to verify whether the measures adopted by the competent authority of the Union institution, body, office or agency concerned ensure the protection of alleged victims of harassment and restore a healthy and safe working environment, respecting the dignity of the persons concerned while an administrative inquiry is ongoing, the Ombudsman may consult external experts in the field for their assistance in the verification and for possible recommendations.