European Ombudsman. Annual report 1996

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OBJECTIVE: to present the report by the European ombudsman for 1996. CONTENT: this report covers the ombudsman's first report on activities during a full calendar year (1996), whereas the previous report only covered the last quarter of the year (the ombudsman only took up office on 27 Sept 1995). In his report, the ombudsman carefully records the number of complaints received and their outcome. The report states that, of all the complaints received and examined in 1996, 598 (i.e. approximately 65%) went beyond his mandate and 250 met the criteria of admissibility, including 207 which warranted investigation. In the second part of this report, the ombudsman describes the inquiries carried out and the decisions taken on 32 cases of maladministration and 3 own-initiative inquiries. Finally, the last part of the report describes the ombudsman's contacts with the European Parliament, the European Commission and national ombudsmen and his public information activities. The ombudsman stresses in this respect that his work is carried out publicly and with the greatest transparency. In addition, if the ombudsman considers that a complaint is inadmissible from his point of view, he takes care to advise complainants to contact other agencies or take recourse outside the Community. In 1996 such advice was given in 243 cases (complaints outside the ombudsman's mandate), most of which related to Community legislation. In 42 cases (out of 243), complainants were invited to petition the European Parliament, while 5 other complaints were passed directly to the Committee on Petitions of the European Parliament (with the complainant's consent) to be treated as petitions, in accordance with the agreement between the ombudsman and the European Parliament on the mutual transfer of complaints or petitions for which one of the two bodies is clearly competent. In 43 cases, complainants were advised to contact the European Commission. As far as grounds for inquiry are concerned, the ombudsman points out that he himself may decide to conduct an inquiry in what he considers is a case of maladministration. He has the widest powers and does not need to be supplied with proof in order to examine if a matter is indeed a case of maladministration. He decides on the basis of his inquiry whether to reject or accept the case on the basis of the comments which the Community institution in question is invited to submit. The report illustrates that the ombudsman takes a realistic approach to the concept of maladministration on the basis of the case law of the Court of Justice and the Court of First Instance and national traditions. The ombudsman checks that the information received is correct, that citizens have been clearly informed in advance of their contractual relations with the Community institutions, that decisions are properly reasoned, that responses to requests for information are not sent out late (or not at all) and that procedures are impartial and transparent. He also checks that the powers of all the Community institutions, especially the European Commission are being duly and correctly exercised. The ombudsman notes that an increasing number of complaints concern delayed responses to proceedings instituted by European citizens with the Community institutions. At the same time, the ombudsman stresses his good relations with the European Parliament, which is authorized to inspect the ombudsman's annual reports and special reports on maladministration and to make appropriate comments. In practice, he may refer to the European Parliament if the assistance which he requests from Community institutions during inquiries into maladministration is unsatisfactory and he does not obtain all the information needed. He points out in this respect the positive attitude taken to his action by the Community institutions and agencies to which he referred and notes that, in 12 cases, he requested and obtained a friendly solution, to the satisfaction of the complainant. Finally, the ombudsman conducted a number of inquiries on his own initiative. This type of inquiry may prove useful because citizens may not be fully aware of their rights vis-à-vis Community institutions and they may therefore be opened in the absence of any complaint. However, the ombudsman emphasizes that it is preferable to open an own-initiative inquiry where there is a sufficient number of complaints about a specific body or a specific form of administrative activity. In his report, the ombudsman notes that he was led to conduct own- initiative inquiries by the large number of complaints (83) concerning the Commission's failure to perform its duty as "guardian of the Treaties" vis-à-vis the Member States and complaints on the grounds of transparency (30 complaints). The ombudsman has called in this respect for greater openness and transparency on the part of the Commission and, along the same lines, has launched

several initiatives to promote better access for citizens to the documents of the Community institutions in accordance with Declaration 17 of the final act of the Treaty on European Union. In conclusion, the office of the European Union ombudsman is an innovative office in relation to the operation, terms of reference and possibilities of national ombudsmen. The constructive way in which the Community institutions have welcomed the ombudsman augurs well for the Union's desire for openness and democracy and observance of the respective jurisdiction of each Community body and institution.