Basic information

2019/0900(APP) APP - Consent procedure Regulation	Procedure completed
Regulations and general conditions governing the performance of the Ombudsman's duties See also 2018/2080(INL) **Subject** 1.20.04 European Ombudsman	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	AFCO Constitutional Affairs	RANGEL Paulo (PPE)	11/07/2018
	Committee for opinion	**Rapporteur for opinion**	**Appointed**
	PETI Petitions	AUKEN Margrete (Verts /ALE)	16/05/2018
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Secretariat-General	TIMMERMANS Frans	

Key events

Date	Event	Reference	Summary
12/02/2019	Initial legislative proposal published	T8-0080/2019	
09/06/2021	Legislative proposal published	T9-0280/2021	
18/06/2021	Act adopted by Council after consultation of Parliament		
23/06/2021	Decision by Parliament	T9-0303/2021	
16/07/2021	Final act published in Official Journal		

Technical information

Procedure reference	2019/0900(APP)

Procedure type	APP - Consent procedure
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	See also 2018/2080(INL)
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/9/01856

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Text adopted by Parliament, single reading		T8-0080/2019	12/02/2019	
Text adopted by Parliament, partial vote at 1st reading /single reading		T9-0280/2021	09/06/2021	
Text adopted by Parliament, 1st reading/single reading		T9-0303/2021	23/06/2021	Summary

European Commission

Document type	Reference	Date	Summary
Commission document (COM)	COM(2019)0553	31/10/2019	Summary
Document attached to the procedure	COM(2021)0329	18/06/2021	

Final act

Regulation 2021/1163
OJ L 253 16.07.2021, p. 0001

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

2019/0900(APP) - 23/06/2021

The European Parliament adopted by 623 votes to 9, with 61 abstentions, a legislative resolution on the 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.

The legislative procedure to adopt the Statute of the European ombudsman is of special constitutional and institutional nature. On the one hand, Parliament has an authentic right of legislative initiative, the so-called direct right of initiative. On the other hand, consent of the Council is required and the Commission must give its opinion.

Given the approval of the Council and the European Commission's favourable opinion, Parliament adopted the regulation laying down the **regulations and general conditions governing the performance of the Ombudsman's duties**.

In concrete terms, the proposed regulation:

- sets out the conditions under which a complaint can be made to the Ombudsman;

- provides for procedures to be followed when the Ombudsman's enquiries reveal maladministration;

- allow the Ombudsman, without prejudice to his or her primary duty, which is to handle complaints, to conduct own-initiative inquiries whenever he or she finds grounds, and in particular in repeated, systemic or particularly serious instances of maladministration;

- provides for the possibility for the Ombudsman to conduct an enquiry to identify maladministration in the context of raising alerts.

The Ombudsman should have access to all elements required for the performance of his or her duties. To that end, the EU institutions, bodies, offices and agencies should provide the Ombudsman with any information that he or she requests for the purposes of an inquiry.

The Ombudsman and his or her staff should be obliged to treat in confidence any information which they have acquired in the course of their duties, without prejudice to the Ombudsman's obligation to inform the authorities of the Member States of facts which might relate to criminal offences and have come to his or her attention in the course of an inquiry.

The Ombudsman should also be able to inform the Union institution, body, office or agency concerned of the facts that call into question the conduct of a member of their staff.

Where necessary for the effective performance of his or her duties, the Ombudsman should be given the possibility to cooperate and exchange information with the authorities of the Member States, in compliance with the applicable national and Union law, and with other Union institutions, bodies, offices or agencies, in particular those responsible for the defence and protection of fundamental rights.

The draft regulation stipulates that the Ombudsman should be appointed by the European Parliament at the beginning of the parliamentary term and for the duration thereof, chosen from among persons who are citizens of the Union and who offer all requisite guarantees of independence and competence. General conditions should also be laid down inter alia concerning the cessation of the Ombudsman's duties, the replacement of the Ombudsman, incompatibilities, the remuneration of the Ombudsman and the privileges and immunities of the Ombudsman.

The seat of the Ombudsman should be that of the European Parliament.

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

2019/0900(APP) - 31/10/2019 - Document attached to the procedure

OPINION OF THE COMMISSION 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.

The Commission welcomed the draft Regulation of the European Parliament, adopted at its plenary session on 12 February 2019, which examines the European Ombudsman’s statute for the first time since the entry into force of the Lisbon Treaty.

Several proposed changes confirm established practice or introduce improvements. The Commission therefore endorses, in whole or in part, the provisions of the proposal, in particular concerning:

compliance with the rules on the protection of personal data;

- the extension of the deadline for the Commission to deliver its opinion: the current rule is that, if the Ombudsman makes recommendations in the context of a decision on maladministration, the Commission must reply within three months;
- the possibility for the Ombudsman to conduct own-initiative inquiries of a strategic nature in order to identify repeated or particularly serious cases of maladministration;
- the principle of ‘structured and regular dialogue’ with the institutions and the possibility of organising public consultations before making recommendations;
- the presentation of ‘special reports’ to the European Parliament in very exceptional and sensitive cases, where the Ombudsman considers that the extent of maladministration is particularly serious;
- the possibility for the Ombudsman to appear before the European Parliament, on his own initiative or at the request of the European Parliament, in connection with an inquiry into the activities of an institution;
- the new procedure to propose a solution to eliminate instances of maladministration and satisfy the complaint;
- referral to the European Anti-Fraud Office and the European Public Prosecutor's Office where the facts are likely to fall within the scope of criminal law;
- information to the data subject and the complainant by the Ombudsman when information has been provided to the European Public Prosecutor's Office;
- the principle of cooperation with the European Union Agency for Fundamental Rights.

However, the Commission does not agree with some of the amendments and comments on some aspects, including:

- the Ombudsman has the right to make recommendations where the Ombudsman finds that a Union institution, body, office or agency is not properly applying a court ruling;
- the extension of the deadline for filing a complaint from two to three years;
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the new provisions on sexual harassment cases: the Commission considers that (i) the Ombudsman already has some of the powers envisaged and there is therefore a risk of duplication and side effects; (ii) some of these provisions do not fall within the Ombudsman's remit; (iii) there is a general problem of method and process; (iv) other provisions are unclear;

- the new provisions on whistleblowers: the Commission considers that (i) the Ombudsman's mandate does not include the evaluation of policies and procedures in general; (ii) the Ombudsman's mandate is to investigate cases of maladministration, and not to provide advice to staff members of the institutions, let alone in a confidential manner; (iii) the reference to the waiving professional secrecy should be deleted;
- the new provisions on access to documents: in particular, the Commission proposes to replace the wording of the proposal in order to clarify that the institutions, bodies, offices or agencies concerned shall give access to documents originating in a Member State and classified as secret by law only the Ombudsman's services have put in place appropriate measures and safeguards for the handling of classified documents; in general, it should be ensured that confidential information is properly identified and processed;
- the extension of the scope of testimonies of officials and other servants of the Union's institutions, bodies, offices and agencies: the Commission considers that (i) the legal framework for the disclosure of information by members of staff to the Ombudsman must be clarified, as well as the fact that staff members cannot be called upon to testify individually (ii) that the obligation of professional secrecy should always apply;
- the new provision on conflicts of interest: the Commission considers the Ombudsman is not a body for permanent scrutiny or oversight of specific activities or areas of activities of other institutions. The Ombudsman may deal with these issues on the basis of its powers to investigate complaints or to launch own initiative inquiries, but only in the context of possible instances of maladministration.