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*Plenary sitting*

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**A9-0342/2021**

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# **REPORT**

on the annual report on the activities of the European Ombudsman in 2020  
(2021/2167(INI))

Committee on Petitions

Rapporteur: Eleonora Evi

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### on the annual report on the activities of the European Ombudsman in 2020 (2021/2167(INI))

*The European Parliament,*

- having regard to the annual report on the activities of the European Ombudsman in 2020,
  - having regard to Article 10(3) of the Treaty on European Union (TEU),
  - having regard to Articles 15, 24(3), 228 and 298(1) of the Treaty on the Functioning of the European Union (TFEU),
  - having regard to Articles 11, 41, 42 and 43 of the Charter of Fundamental Rights of the European Union ('the Charter'),
  - having regard to the UN Convention on the Rights of Persons with Disabilities (UNCPRD),
  - having regard to Regulation (EU, Euratom) 2021/1163 of the European Parliament of 24 June 2021 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<sup>1</sup>,
  - having regard to the European Code of Good Administrative Behaviour adopted by Parliament on 6 September 2001,
  - having regard to the Framework Agreement on Cooperation concluded between Parliament and the European Ombudsman on 15 March 2006, which entered into force on 1 April 2006,
  - having regard to its previous resolutions on the European Ombudsman's activities,
  - having regard to Rules 54 and 142(2) of its Rules of Procedure,
  - having regard to the report of the Committee on Petitions (A9-0342/2021),
- A. whereas the annual report on the activities of the European Ombudsman in 2020 was formally submitted to the President of Parliament on 6 September 2021 and whereas the European Ombudsman, Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 14 July 2021;
- B. whereas Articles 20, 24 and 228 TFEU and Article 43 of the Charter empower the European Ombudsman to receive complaints concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception

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<sup>1</sup> OJ L 253, 16.7.2021, p. 1.

of the Court of Justice of the European Union (CJEU) acting in its judicial role;

- C. whereas Article 10(3) TEU establishes that ‘every citizen shall have the right to participate in the democratic life of the Union’ and that ‘decisions shall be taken as openly and as closely as possible to the citizen’;
- D. whereas Article 15 TFEU states that ‘in order to promote good governance and ensure the participation of civil society, the Union’s institutions, bodies, offices and agencies shall conduct their work as openly as possible’ and that ‘any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, shall have a right of access to documents of the Union’s institutions, bodies, offices and agencies’; whereas ensuring that high-quality services are provided to EU citizens and that the EU administration is responsive to their needs and concerns is crucial in protecting citizens’ rights and fundamental freedoms;
- E. whereas Article 41 of the Charter, on the right to good administration, states, inter alia, that ‘every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union’;
- F. whereas Article 43 of the Charter states that ‘any citizen of the Union and any natural or legal person residing or having its registered office in a Member State has the right to refer to the European Ombudsman cases of maladministration in the activities of the institutions, bodies, offices or agencies of the Union, with the exception of the Court of Justice of the European Union acting in its judicial role’;
- G. whereas Article 298(1) TFEU establishes that ‘in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration’;
- H. whereas in 2020 the Ombudsman opened 370 inquiries, of which 365 were complaint-based and 5 own-initiative, while closing 394 inquiries (392 complaint-based and 2 own-initiative); whereas most of the inquiries concerned the Commission (210 inquiries or 56.8 %), followed by the EU agencies (34 inquiries or 9.2 %), the European Personnel Selection Office (EPSO) (30 inquiries or 8.1 %), the European External Action Service (EEAS) (14 inquiries or 3.8 %), the European Anti-Fraud Office (OLAF) (12 inquiries or 3.2 %), the Parliament (11 inquiries or 3 %) the European Central Bank (9 inquiries or 2.4 %), the European Investment Bank (9 inquiries or 2.4 %), and other institutions (41 inquiries or 11.1 %);
- I. whereas the top three concerns in the inquiries closed by the Ombudsman in 2020 were transparency, accountability (access to information and documents) (25 %), culture of service (24 %) and proper use of discretionary powers, including in infringement procedures (17 %); whereas other concerns include ethical issues in the EU administration, respect for fundamental rights, sound financial management, whistleblowing, respect for procedural rights, recruitment and good management of EU personnel issues;
- J. whereas the Ombudsman plays a key role in ensuring the full transparency, democratic accountability and integrity of the EU decision-making processes;

- K. whereas the Ombudsman's main priority is to ensure that citizens' rights are fully respected and that the right to good administration by EU institutions, bodies, offices or agencies reflects the highest standards;
- L. whereas the Ombudsman carried out a considerable amount of work, following the outbreak of the COVID-19 pandemic, to make sure that all EU institutions comply with the highest standards of good administration in order to protect citizens' rights and enhance public trust;
- M. whereas the Ombudsman examined the work of the Commission during the COVID-19 crisis and requested information, inter alia, on the transparency of the Commission's interaction with interest representatives, on its decision-making related to emergency public procurement and on the transparency and independence of scientific advice concerning the pandemic;
- N. whereas following an inquiry into the performance of the European Centre for Disease Prevention and Control (ECDC) during the COVID-19 crisis, the Ombudsman found gaps in the ECDC's transparency practices, including on the data underlying its risk assessments and interactions with international partners, and made proposals aimed at improving the public scrutiny of the ECDC's activities related to the COVID-19 vaccines;
- O. whereas publicity and transparency are the main principles underlying the EU legislative process, as confirmed by the case-law of the CJEU, which provided clear legal guidance on the way to ensure their full and consistent respect; whereas the CJEU stated that the lack of transparency and information weakens citizens' trust in the legitimacy of the EU legislative process as a whole; whereas, contrary to these principles, the Commission was not transparent in the negotiation, purchase and distribution of COVID-19 vaccines;
- P. whereas the EU citizens' right to know and the EU institutions' obligation to ensure full transparency, especially when it comes to COVID-19 vaccine contracts between the EU institutions and pharmaceutical companies, prevail over any alleged right of pharmaceutical companies or the EU institutions either to hide or not fully disclose any or some information related to these contracts or COVID-19 vaccines;
- Q. whereas the EU has planned a period of unprecedented levels of spending and investment under NextGenerationEU, which will also create significant links with the private sector, therefore making it even more crucial for the EU institutions to have a decision-making process founded on full transparency and on the most stringent ethical rules in order to prevent conflicts of interest and corruption cases;
- R. whereas the Council did not follow the Ombudsman's final recommendations, refusing to provide public and timely access to legislative documents concerning the adoption of the annual regulations setting fishing quotas, which contained fundamental environmental information within the meaning of the Aarhus Regulation, thereby undermining the transparency of its decision-making process; whereas the Ombudsman found that the Council's decision constituted maladministration, stressing that it is still failing to fully understand the critical link between democracy and the transparency of decision-making;

- S. whereas the Ombudsman launched an inquiry into the refusal by the Council to address the issue of corporate sponsorships of the Presidency of the Council of the EU; whereas the Ombudsman found maladministration in the Council's inaction in relation to eliminating the reputational risks that such commercial sponsorships entail to the impartiality of its Presidency and for the image of the EU as a whole;
- T. whereas the Ombudsman raised concerns about the Commission's current practices for the approval of the 'active substances' used in pesticides and about the fact that, according to the Commission's system for verifying conflicts of interest, external scientific experts who advise it do not have to declare financial interests below a threshold of EUR 10 000;
- U. whereas the Ombudsman found that the Commission should have carried out a more critical scrutiny of all risks of conflicts of interest before awarding a contract to carry out a study on integrating environmental, social and governance (ESG) objectives into EU banking rules to BlackRock Investment Management, a company managing investments in the fossil fuel and banking sectors, which are areas that fall within the scope of the new rules on ESG; whereas the Ombudsman underlined that the EU rules on public procurement are not robust and clear enough to prevent conflicts of interest;
- V. whereas the former European Investment Bank (EIB) Vice-President left the EIB Management Committee in November 2020 and, after less than three months, joined the board of the Spanish multinational utility company Iberdrola; whereas the former EIB Vice-President was in charge of overseeing the EIB's lending operations in Spain, including Iberdrola; whereas from 2019 onwards Iberdrola benefited from massive loans worth EUR 1.39 billion in total, making it one of the top clients of the EIB in recent years; whereas this case illustrates the unresolved controversial practice at the EIB of allowing its Vice-Presidents, nominated by the Member States, to be put in charge of overseeing EIB lending in their countries of origin, thereby running the risk of giving rise to conflicts of interest;
- W. whereas according to the Ombudsman, the Commission's failure to finalise a 'sustainability impact assessment' (SIA) before concluding the negotiations on a trade agreement between the EU and Mercosur constituted maladministration; whereas the Ombudsman's findings underlined that the Commission had disregarded its own guidelines on the use of SIAs before the conclusion of the trade negotiations;
- X. whereas the Ombudsman found instances of maladministration in the decision by the European Banking Authority (EBA) to approve the job move of its then Executive Director as Chief Executive Officer (CEO) of the Association for Financial Markets in Europe (AFME), a lobby organisation for the financial industry, failing to mitigate the risks of conflicts of interest, as well as continuing to give him access to confidential information; whereas the EBA has begun implementing the Ombudsman's recommendations, enabling the Ombudsman to close the case;
- Y. whereas the Commission's strategy in dealing with petitions refers to its 2016 Communication entitled 'EU law: Better results through better application', whose rules establish no administrative procedure or practice concerning petitions; whereas the Commission's approach, resulting in its systematic refusal to take action on individual

petition issues and on petitions concerning areas under Article 6 TFEU is at odds with the provisions of Article 227 TFEU and is creating frustration and disappointment among citizens, while at the same time undermining the possibility to identify systematic shortcomings in relation to EU law occurring in Member States;

- Z. whereas many petitions received by the Committee on Petitions are related to the Commission's lack of transparency and request that the full details of the COVID-19 vaccine contracts signed between the Commission, the Member States and the pharmaceutical industry, as well as data on patient-level clinical trials, be published;
- AA. whereas the Ombudsman is a redress mechanism for citizens facing problems in gaining access to documents held by the EU institutions; whereas a significant number of the Ombudsman's inquiries in 2020 resulted in access being granted to documents of wider public interest, in spite of the fact that the applicable EU legislation is structurally inadequate, as it is outdated and no longer reflects the current practices adopted by the EU institutions;
- AB. whereas the Ombudsman put in place a set of actions aimed at promoting better and more consistent implementation of the UN Convention on the Rights of Persons with Disabilities (UNCRPD) within the overall EU administration and launched a strategic initiative on the way the Commission accommodated the special needs of staff members with disabilities in the context of the COVID-19 emergency;
- AC. whereas the Ombudsman launched an inquiry into how the Commission ensures that Hungary and Portugal's use of European structural and investment funds (ESI Funds) for care facilities for persons with disabilities is in line with the legal obligations stemming from the Charter, the ESI Funds Regulation and the UNCRPD;
1. Approves the annual report for 2020 presented by the European Ombudsman, and commends its excellent presentation of the most important facts and figures concerning the Ombudsman's work in 2020;
  2. Congratulates Emily O'Reilly on her remarkable work to enhance the openness, accountability and integrity of the EU institutions, bodies, offices and agencies, thereby safeguarding citizens' fundamental rights, in particular in a tragic year marked by the devastating consequences of the outbreak of the COVID-19 pandemic; recalls that transparency is enshrined in the rule of law and represents a key principle of participative democracy;
  3. Recalls that the Ombudsman can make recommendations, proposals for solutions and suggestions for improvement with a view to solving a problem in cases of maladministration; notes that where a complaint falls outside the Ombudsman's mandate, the Ombudsman may advise the complainant to refer it to another authority or to the Committee on Petitions; notes that in 2020 the Ombudsman received more than 1 400 complaints which did not fall within her mandate, mainly because they did not concern activities related to the EU administration;
  4. Congratulates the Ombudsman on her monitoring of how the EU's frontline institutions are carrying out their work during the pandemic and for underlining their obligation to ensure transparency; welcomes the question addressed by the Ombudsman to the

Commission about the transparency of the scientific advice it receives, its meetings with interest representatives and its decisions related to emergency public procurement;

5. Expresses its appreciation of the Ombudsman for her constructive cooperation with Parliament, in particular the Committee on Petitions, and with other EU institutions; commends the Ombudsman for her capacity to improve the quality and accessibility of the services provided to citizens and for the fact that, in spite of the backdrop of the pandemic, there was no fall-off in her core work and no disruption in dealing with complaints;
6. Notes that the Ombudsman's work has led to positive changes in the EU institutions and bodies;
7. Emphasises the essential role of transparency and good administration in the work of the EU institutions; regrets the fact that the Commission did not provide adequate explanations to the Ombudsman's requests on key elements of its work during the COVID-19 crisis; calls on the Commission to clarify its decision-making on emergency public procurement, including on the appointment procedures of the members of the various committees, in order to ensure full transparency of the process;
8. Notes that the Commission has acknowledged the competitive nature of the market for vaccines; believes it is in the interests of European citizens to have clarity and transparency on Advance Purchase Agreements and Purchase Agreements concerning COVID-19 vaccines, and that this must prevail over the request of the manufacturers to introduce non-disclosure clauses; stresses that trust between citizens and the institutions is of paramount importance, especially in the context of the COVID-19 crisis; encourages the Ombudsman to continue her inquiries and to ask the Commission to publish non-redacted versions of such Advance Purchase Agreements and Purchase Agreements; urges the Commission to ensure full transparency on all details of the research into, and the development, purchase and distribution of COVID-19 vaccines, by publishing non-redacted versions of the Advance Purchase Agreements and the Purchase Agreements and by making the disclosure of all details in future contracts concerning COVID-19 vaccines a precondition for future negotiations with pharmaceutical companies; emphasises that any lack of transparency in the framework of the COVID-19 pandemic is at odds with citizens' right to information and fuels disinformation and distrust;
9. Stresses the paramount importance of guaranteeing the full and consistent implementation of the Ombudsman's proposals made following her strategic inquiry on improving the transparency practices and the overall work of the ECDC, whose role is crucial in collecting and publicising key information on COVID-19 vaccines and in enhancing public trust in the EU's COVID-19 vaccination strategy;
10. Supports the Ombudsman in her work to ensure that citizens can fully exercise their democratic rights by, inter alia, directly participating in and following in detail the decision-making process within the EU institutions, as well as by having access to all the relevant information as also stipulated by the CJEU's case-law;
11. Welcomes the Ombudsman's action on requests to the Commission to provide public access to documents related to Member States' recovery and resilience plans, which are



of significant public interest, and relate to the unprecedented amount that will be allocated under NextGenerationEU; welcomes the fact that the Commission has already made extensive material about the Recovery and Resilience Facility available; stresses that more transparency and strengthened oversight by the relevant authorities is needed in this respect, including strengthened oversight by the Ombudsman of the administrative procedures concerning the EU funds; calls on the Ombudsman to explore, together with European Network of Ombudsmen (ENO) members, other possible actions within their competence on supervising the allocation and use of EU funds, in order to protect Union citizens' rights against possible conflicts of interest and corruption cases, as well as violations of the rule of law, contributing to ensuring the integrity, full transparency and democratic accountability of the EU institutions;

12. Underlines that the transparency of the legislative process represents a core component of any representative democracy; regrets the fact that the Council's current practices with regard to its decision-making process are still marred by a lack of transparency; deplores the fact that the Council is persisting in preventing citizens from having direct and timely access to its legislative documents, while the legislative process is ongoing, in breach of citizens' right to participate effectively in the decision-making process;
13. Commends the Ombudsman for her determination to achieve full transparency in the EU decision-making process; recalls that in its resolution of 17 January 2019 on the Ombudsman's strategic inquiry OI/2/2017 on the transparency of legislative discussions in the preparatory bodies of the Council of the EU<sup>2</sup>, Parliament supported the Ombudsman's proposals on legislative transparency; stresses the need to monitor the implementation of the Ombudsman's recommendations for transparency in trilogues; calls on the Council to step up its transparency efforts, particularly by recording and publishing Member States' positions and by making more trilogue documents available, in order to uphold citizens' democratic rights;
14. Welcomes the fact that in the context of the wider strategic work on the response of the EU administration during the COVID-19 crisis, the Ombudsman also opened an own-initiative inquiry into the extraordinary decision-making procedures put in place by the Council; encourages the Council to follow the suggestions for the improvement of its work that the Ombudsman put forward;
15. Urges the Commission to refrain from approving 'active substances' used in pesticides in cases where critical areas of concern or no safe use have been identified, or when additional data confirming their safety is needed, given the already serious consequences which the use of pesticides has caused for human health and the environment;
16. Calls on the Commission to ensure an approval process for 'active substances' in pesticides, which is fully transparent and free from conflicts of interest; notes that the European Citizens' Initiative entitled 'Save Bees and Farmers' has gathered over one million signatures across the EU and that this initiative calls for a phase-out of synthetic pesticides in the EU, for measures to restore biodiversity and for support for farmers to make the transition to sustainable agriculture; asks the Ombudsman to continue investigating the systems in place at EU level to make sure that the current policies and

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<sup>2</sup> OJ C 411, 27.11.2020, p. 149.

procedural safeguards in this field guarantee the highest levels of human health and environmental protection, and that the collection and examination of scientific evidence is fully transparent, accurate and free from conflicts of interest;

17. Recalls that in March 2020, the Ombudsman closed her inquiry into how the Commission ensures that scientific experts who advise it have no conflicts of interest; calls on the Commission to improve its assessment processes of the independence of the scientific experts who advise it, including by fully implementing the Ombudsman's suggestions following her inquiry on this matter, ensuring that the experts concerned do not have any conflict of interest;
18. Encourages the Ombudsman to launch an inquiry on the Commission's strategic approach in dealing with petitions, as its action, which is only limited to issues it considers of strategic importance or which reflect structural problems, and which therefore excludes individual cases, could affect citizens' rights to petition and to good administration;
19. Criticises the Commission for its failure to finalise the SIA before concluding the EU-Mercosur trade negotiations; recalls Parliament's position that the environmental and social impacts of free trade agreements must be thoroughly assessed prior to the conclusion of trade negotiations;
20. Criticises the decision of those Member States, which held the Presidency of the Council, to use corporate sponsorship, as it entails serious reputational risks to the EU's image, stressing the importance for the future to refrain from any sponsorship; considers paramount the adoption of the most stringent rules preventing such practices from taking place with a view to safeguarding the reputation and integrity of the Council and of the EU as a whole; calls on the Member States to comply with their obligation to collaborate with the Ombudsman in full transparency;
21. Commends the Ombudsman's work to protect EU citizens' right to access documents held by the EU institutions and to provide citizens with documents in all EU official languages; welcomes the Ombudsman's initiative on the fast-track procedure related to access to documents cases, aiming to have a decision on the requested documents within 40 working days; underlines that in 2020 the average time taken to handle public access complaints is one third what it was before 2018 when this procedure was introduced; considers it paramount to guarantee full transparency and public access to the documents held by the EU institutions in order to ensure the highest levels of protection of the democratic rights of citizens and their trust in the EU institutions; believes that revision of Regulation (EC) No 1049/2001<sup>3</sup> must take place as a matter of priority; regrets the fact that EU legislation on access to documents is very much obsolete, thereby also hampering the Ombudsman's activities on this matter;
22. Approves the Ombudsman's repeated commitment to combating revolving door cases, including the one involving the EBA, which persuaded it to agree with her recommendations by adopting a new policy for assessing post-employment restrictions and prohibitions for staff, as well as new procedures to suspend access to confidential

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<sup>3</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents, OJ L 145, 31.5.2001, p. 43.

- information immediately for staff who are leaving;
23. Calls on the Ombudsman to continue her work to ensure the timely publication of the names of all EU officials involved in ‘revolving door’ cases and to guarantee full transparency with regard to all related information;
  24. Welcomes the inquiry launched by the Ombudsman into how the EIB handled its former Vice-President’s post-employment application for a senior position at the Spanish company Iberdrola that had received a massive amount in loans from the EIB; criticises the failure of the EIB to act on Parliament’s request to include in the Code of Conduct of the EIB Management Committee provisions preventing their Members from overseeing lending and the implementation of projects in their countries of origin; calls on the EIB to fully and consistently comply with Parliament’s demand, and to strengthen its integrity rules and their enforcement in order to prevent conflicts of interest and reputational damage;
  25. Welcomes the Ombudsman’s investigations into the protection of refugees’ fundamental rights, including her inquiry into how the European Border and Coast Guard Agency (Frontex) handles breaches of fundamental rights and the extension of its mandate, the transparency and effectiveness of the complaint mechanism and the role and the independence of the Fundamental Rights Officer; calls on the Ombudsman to follow this up by looking at the Commission’s future actions and by investigating how its established monitoring mechanism checks the effectiveness of border management operations that are funded by the EU; highlights the importance of the Ombudsman’s investigation into how the Commission ensures that Member States’ authorities respect fundamental rights in border management operations;
  26. Asks the Commission to comply fully and in a timely manner with the Ombudsman’s recommendations made following her inquiry on the BlackRock case by adopting strengthened and clearer rules, including in the framework of its internal guidelines, aimed at preventing any conflicts of interest in all procedures related to public procurement with a view to, inter alia, safeguarding the integrity of the decision-making processes concerning the adoption of new rules on ESG issues at EU level;
  27. Supports the Ombudsman’s activities aimed at guaranteeing the full and consistent implementation of the UNCRPD by the EU administration, including the list of best practices set out to promote a consistent approach across the EU administration in accommodating the special needs of staff members with disabilities in the context of the COVID-19 emergency; welcomes the Ombudsman’s inquiries following complaints by persons with disabilities, and encourages her in her work as an active participant in the EU Framework for the UNCRPD; recalls, in this regard, that the Ombudsman chaired the EU Framework for the UNCRPD in 2020;
  28. Welcomes the continuation of the Award for Good Administration, which aims to recognise actions by the EU public service that have a positive impact on the lives of European citizens; takes the view that the award should be better publicised to show European citizens that the EU institutions are taking practical action;
  29. Urges the Commission to investigate the use of ESI Funds which were allocated for the construction of institutional care facilities for persons with disabilities in Hungary and

Portugal;

30. Stresses that ESI Funds have been allocated to promote the rights of persons with disabilities to live independently and to be included in the community; stresses that it is essential to monitor the allocated EU funds, which should be used to support deinstitutionalisation in Member States;
31. Notes that there has been a slight increase in the number of complaints addressed to the Ombudsman during recent years, which shows that more citizens are now aware of the existence of the institution and the very useful work it does to defend public interests;
32. Stresses that Member States' obligations as regards the principle of non-discrimination, including paying particular attention to ensuring the participation of persons with disabilities throughout the preparation and implementation of projects, should be respected;
33. Welcomes the fact that in 2020, the average length of the inquiries of cases closed by the Ombudsman was five months, an improvement compared to the previous year where it stood at seven months;
34. Notes with satisfaction that 57 % of the cases were closed in 2020 in less than three months, and that the cases which take up to 18 months to be resolved represented only 1 %, compared to 10 % in the previous year and 27 % in 2013; appreciates, therefore, the efforts to resolve the issues raised by citizens and calls on all institutions concerned to respond to requests from the Office of the European Ombudsman in a timely manner;
35. Notes that the number of complaints that are outside the European Ombudsman's mandate has remained relatively stable throughout the years (1 420 in 2020; 1 330 cases in 2019; and 1 300 cases in 2018); notes that, according to the 2020 report, most of these complaints do not concern the EU administration; welcomes the efforts of the Office to better inform citizens about the Ombudsman's mandate; points out at the same time the need to improve communication and awareness about the various forms of complaints citizens can submit at national and European level; stresses the role that Parliament and its Members should also play in this regard;
36. Notes that the acceptance rate of the Ombudsman's proposals by the EU institutions stood at 79 % in 2020, representing a slight improvement on the previous year; strongly believes that the Union institutions, agencies and bodies must fully and consistently comply with the Ombudsman's solutions, recommendations and suggestions;
37. Stresses the importance of the ENO and of the annual meetings hosted with national and regional ombudsmen through the ENO to further raise awareness of what the Ombudsman's Office can do for European citizens; welcomes the Ombudsman's actions during the pandemic to keep regular contact with her national colleagues and to organise and host webinars throughout 2020 on topics such as the implications of the pandemic, promoting and sharing best practices in crisis response and on the impact of artificial intelligence; acknowledges the important contribution made by the ENO in providing information on the responsibilities and competences of its members and on the proper implementation of European law; calls on this network to consider the role that national and regional ombudsmen could play in getting EU citizens more involved

in the EU decision-making process; encourages further cooperation between the members of ENO, including in the area of promoting future parallel inquiries;

38. Commends the Ombudsman on her activities on digital platforms, raising EU citizens' awareness of her work; notes that the fastest-growing channel in 2020 was Instagram, where the audience grew by 71 % during the year (1 068 new followers); on LinkedIn, where the number of followers increased by 34 % (up by 1 237), while on Twitter, where the Ombudsman has the largest audience, the number of followers reached 29 200 in December 2020, which represents an 11 % increase (up by 2 870);
39. Congratulates the Ombudsman on the 25th anniversary of the establishment of the post, underlining that, since 1995, the Office has handled over 57 000 complaints and conducted more than 7 300 inquiries, which has greatly contributed to improving the ethical and accountability standards of the EU institutions across a wide range of areas; endorses the Ombudsman's strategy 'Towards 2024' aimed at increasing the impact, visibility and relevance of the Ombudsman's Office, setting out its objectives and priorities for the current term, which include raising citizens' awareness of the Ombudsman's work;
40. Welcomes the adoption of the new Statute of the Ombudsman, whose provisions provide clarity on the Ombudsman's role and add further competences on areas related to whistleblowing, harassment and conflicts of interest in the institutions, bodies and agencies of the EU; considers it of the utmost importance to allocate an increased budget to the Ombudsman, in order to provide her with the necessary resources to effectively handle her overall workload;
41. Welcomes the Ombudsman's practical recommendations for the EU administration on the use of 24 official languages when communicating with the public; stresses that these recommendations are vital to the preservation of rich linguistic diversity in Europe; recalls that the equality of languages should be better ensured by the EU institutions; notes that the websites of the EU institutions should better demonstrate the equality of all 24 official EU languages and regrets the fact that many parts of the EU institutions' websites are still available only in some languages;
42. Welcomes the Ombudsman's efforts to improve public participation in the EU decision-making process;
43. Welcomes the new version of the Ombudsman's website, which is more dynamic and easier for European citizens to use; encourages the Ombudsman to translate more of her publications into all of the EU's official languages;
44. Instructs its President to forward this resolution and the report of the Committee on Petitions to the Council, the Commission, the European Ombudsman, the governments and parliaments of the Member States and their Ombudsmen and equivalent competent bodies.

## EXPLANATORY STATEMENT

The annual report on the activities of the European Ombudsman in 2020 was formally submitted to the President of the European Parliament on 6 September 2021 and the Ombudsman, Emily O'Reilly, presented the report to the Committee on Petitions in Brussels on 14 July 2021.

The Ombudsman's mandate is enshrined in Art. 24 and 228 of the Treaty of the Functioning of the European Union (TFEU).

Article 24 of the TFEU as well as Article 43 of the EU Charter of Fundamental Rights, establish the right to complain to the European Ombudsman.

According to Art. 228 TFEU, the European Ombudsman elected by the European Parliament, is empowered to receive complaints from any citizen of the Union, or any natural or legal person residing or having its registered office in a Member State, concerning instances of maladministration in the activities of the Union institutions, bodies, offices or agencies, with the exception of the Court of Justice of the European Union acting in its judicial role.

The provisions of articles 15 TFEU are also strongly related to the Ombudsman's work as they establish that in order to promote good governance and ensure the participation of civil society, the Union's institutions, bodies, offices and agencies shall conduct their work as openly as possible. Furthermore it also foresees that the European Parliament shall meet in public, as shall the Council when considering and voting on a draft legislative act and that any citizen of the Union, and any natural or legal person residing or having its registered office in a Member State, must have a right of access to documents of the Union's institutions, bodies, offices and agencies.

Additional cornerstones, particularly bound to the Ombudsman's role, are Article 298(1) TFEU, which sets out that 'in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an open, efficient and independent European administration', and Article 41(1) of the Charter of Fundamental Rights of the European Union where it is underlined that 'every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union'.

In 2020, 20 302 citizens called on the Ombudsman's services for help, of whom 16 892 were given advice through the Interactive Guide on the Ombudsman's website, while 1 262 remaining requests for information were replied to by the Ombudsman's services and 2 148 were handled by the Ombudsman as complaints.

Out of the total number of 2 148 complaints processed by the Ombudsman in 2020, 728 fell within the Ombudsman's mandate and 1 420 fell outside the scope of the Ombudsman's mandate.

In 2020, the Ombudsman opened 370 inquiries, of which 365 were complaint-based and 5 were own-initiative inquiries, while closing 394 inquiries (392 complaint-based and 2 own-initiative inquiries).



Most of the inquiries concerned the Commission (210 inquiries or 56.8 %), followed by the EU agencies (34 inquiries or 9.2 %), the European Personnel Selection Office (EPSO) (30 inquiries or 8.1 %), the European External Action Service (EEAS) (14 inquiries or 3.8 %), the European Anti-Fraud Office (OLAF) (12 inquiries or 3.2 %), the Parliament (11 inquiries or 3 %), the European Central Bank (9 inquiries or 2.4 %), the European Investment Bank (9 inquiries or 2.4 %), and other institutions (41 inquiries or 11.1 %).

The Ombudsman's top three concerns in the inquiries closed in 2020 were transparency and accountability (access to information and documents) (25 %), culture of service (24 %) and proper use of discretion (including in infringement procedures) (17 %). Other concerns include ethical issues, respect for fundamental rights, sound financial management, whistleblowing, respect for procedural rights, recruitment and good management of EU personnel issues.

The year 2020 also represents the 25th anniversary of the European Ombudsman. The Rapporteur would like to congratulate the Ombudsman as, since its entry into force in 1995, the Ombudsman's Office greatly contributed to improve ethical and accountability standard of the EU Institutions across a wide range of areas. The Rapporteur endorses the Ombudsman's strategy 'Towards 2024' aimed at increasing the impact of the Ombudsman's Office work and welcomes the adoption of the new Statute of the European Ombudsman, whose provisions reinforce the Ombudsman's role and add further competences. The Rapporteur considers key to award the Ombudsman an increased budget in order to provide her with the necessary resources to effectively handle the overall workload.

The Rapporteur appreciates the considerable work performed by the Ombudsman in 2020, a year marked by the tragic consequences arising from the outbreak of the COVID-19 pandemic.

The Rapporteur commends the Ombudsman's tireless efforts aimed at strengthening the transparency, accountability and integrity of the EU Institutions, bodies, offices and agencies in order to safeguard citizens' fundamental rights.

The Rapporteur welcomes that the Ombudsman reminded that it is precisely in challenging times that the highest standards of good administration are required to reassure and to comfort the public that the measures taken are the correct ones and will be properly implemented.

The Rapporteur is deeply concerned instead that EU rules on public procurement are not robust and clear enough to prevent conflicts of interest, as outlined by the Ombudsman in its work.

This is particularly worrying as the EU planned a period of unprecedented levels of spending and investment under Next Generation EU, which will also create substantial links with the private sector. The Rapporteur stresses that full transparency and the adoption of the strongest ethical rules as underlying elements for all decisions adopted are, therefore, even more paramount in order to prevent any future conflict of interest and corruption cases.

The Rapporteur criticises the Commission which failed to provide adequate clarifications on key elements of its work during the COVID-19 crisis, notably on its decision-making related to emergency public procurement, also refusing to ensure full transparency on all details of research, development, purchase and distribution of the COVID-19 vaccines included in the Advance Purchase Agreements and the Purchase Agreements signed with pharmaceutical companies.

She also considers unacceptable that the Council's decision making process is still affected by severe lack of transparency and that it is persisting in preventing citizens from having directly and timely access to its legislative documents while the legislative process is ongoing. The Rapporteur reminds that the Court of Justice stipulated that the principles of publicity and transparency are inherent to the EU legislative process and that the lack of transparency and information weakens citizens' trust in the legitimacy of the EU legislative process as a whole. The Rapporteur underlines that full transparency at all stages of the EU legislative process is crucial to uphold democratic rights of citizens, enabling them to hold their elected representatives and governments accountable.

The Rapporteur welcomes that a relevant number of Ombudsman's inquiries in 2020 resulted in access being granted to documents of wider public interest despite the EU applicable legislation is severely obsolete and hampers the Ombudsman's activities on this matter. The Rapporteur believes that full transparency and full public access to the documents held by the EU Institutions must be ensured and that a revision of Regulation (EC) n. 1049/2001 must take place without further delay.

The Rapporteur welcomes the Ombudsman's repeated commitment to combatting revolving doors cases.

She would also like to applaud the Ombudsman for her work made in the framework of several important inquiries related to the transparency of decision making around environmental issues, such as the ones on the Commission's practices for the approval of 'active substances' used in pesticides and on the EU-Mercosur trade agreement. The Ombudsman's findings strengthen the Rapporteur's viewpoint.

According to the Rapporteur, on 'active substances' used in pesticides, the Commission must ensure a fully transparent and free from conflicts of interests assessment and approval process and must refrain from approving 'active substances' used in pesticides in case critical areas of concern or no safe use have been identified or when additional data confirming their safety is needed, given the already serious consequences the use of pesticides provoked on human health and the environment.

In addition, the Rapporteur believes that the Commission must commit to put an end to the use of all synthetic pesticides by 2035 at the latest as well as immediately prohibiting the export of pesticides that have been banned in the EU and stopping the import of foodstuff produced outside the EU using such unsafe chemicals.

On the EU-Mercosur trade agreement, the Commission's maladministration arising from its failure to finalise a 'sustainability impact assessment' (SIA) before concluding the trade agreement related negotiations, in breach of its own guidelines on the use of SIAs and of the principles set out in Article 21 TEU, confirm the fact that the whole negotiations' process was irreparably undermined by lack of appropriate and updated information on the potential social, environmental and economic impacts.

According to the Rapporteur, this aspect constitutes an additional reason to stop the adoption of the EU-Mercosur trade agreement.



## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	2.12.2021
<b>Result of final vote</b>	+: 23 -: 10 0: 1
<b>Members present for the final vote</b>	Alex Agius Saliba, Andris Ameriks, Marc Angel, Margrete Auken, Jordan Bardella, Alexander Bernhuber, Markus Buchheit, Ryszard Czarnecki, Rosa D'Amato, Francesca Donato, Eleonora Evi, Agnès Evren, Gheorghe Falcă, Mario Furore, Gianna Gancia, Ibán García Del Blanco, Vlad Gheorghe, Peter Jahr, Radan Kanev, Stelios Kypouropoulos, Cristina Maestre Martín De Almagro, Dolors Montserrat, Ulrike Müller, Sira Rego, Frédérique Ries, Monica Semedo, Massimiliano Smeriglio, Yana Toom, Tatjana Ždanoka, Kosma Złotowski
<b>Substitutes present for the final vote</b>	Asim Ademov, Angel Dzhambazki, Demetris Papadakis, Anne-Sophie Pelletier

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

23	+
ID	Jordan Bardella, Markus Buchheit, Gianna Gancia
NI	Francesca Donato, Mario Furore
Renew	Vlad Gheorghe, Ulrike Müller, Frédérique Ries, Monica Semedo, Yana Toom
S&D	Alex Agius Saliba, Andris Ameriks, Marc Angel, Ibán García Del Blanco, Cristina Maestre Martín De Almagro, Demetris Papadakis, Massimiliano Smeriglio
The Left	Anne-Sophie Pelletier, Sira Rego
Verts/ALE	Margrete Auken, Rosa D'Amato, Eleonora Evi, Tatjana Ždanoka

10	-
ECR	Ryszard Czarnecki, Angel Dzhambazki, Kosma Złotowski
PPE	Asim Ademov, Alexander Bernhuber, Agnès Evren, Gheorghe Falcă, Peter Jahr, Radan Kanev, Dolors Montserrat

1	0
PPE	Stelios Kympouropoulos

**Key:**

+ : in favour

- : against

0 : abstentions