



Annual Report 2017

Annual Report - 17/05/2018

Introduction

Emily O'Reilly, European Ombudsman

It is a great pleasure to present our Annual Report for 2017.

Yet again, we have witnessed a very busy and productive year with positive results for all the people that we serve, across many vital areas. And once again, we have been greatly assisted in our work by the support of the European Parliament and by the engaged co-operation of the EU institutions, bodies and agencies.

The right of citizens to see and participate in EU law-making was the focus of our inquiries into the accountability of the Council and in the informal negotiations that take place between the Parliament, the Council and the Commission – trilogues – when new laws are proposed. We have already seen welcome changes in these areas and will continue to monitor future progress in 2018.

The decision of the UK to leave the EU prompted our initiative concerning the openness of the Brexit negotiations and the right of all citizens to be kept informed about the likely outcomes for them. We continue to make sure that everyone has an opportunity to have their voice heard during this challenging period by encouraging stakeholder engagement and by ensuring that there is no privileged access to the key negotiators.

We were particularly satisfied with the outcome of our investigation into unpaid internships at the European External Action Service (EEAS). We pointed out that the EU's Treaty commitment to non-discrimination was not reflected in the failure to pay the interns, as this meant that only better off young people could afford to access these potentially valuable opportunities. A very positive response by High Representative Federica Mogherini led to the Parliament and Council agreeing to make a budget available to the EEAS for its interns in delegations around the world, and we shall continue to monitor the practical outcome of that welcome move.

We published a simple guide for EU officials on the "DOs and DON'Ts" of dealing with lobbyists, and were pleased that the Commission is now using it in its staff training.

Conscious of the need for fast action when individuals seek EU documents under the Transparency Regulation (1049/2001), we introduced a new Fast-Track procedure for these complaints, and are very encouraged to see initial positive results. We were enabled to do this through the co-operation of the Commission, and we were grateful for its collaborative



approach.

Our work on fundamental rights continued through cases concerning Frontex, and through our inquiry into the EU-Turkey statement concerning the return of migrants to Turkey from Greece.

We continued to encourage greater accountability through our engagement with the European Central Bank and the European Investment Bank. We also had a useful exchange of views with the President of the Eurogroup concerning the accountability of that important group, even though it is not an official EU institution.

Our valuable collaboration with the European Network of Ombudsmen continued and, once again, we had a stimulating and enjoyable conference in Brussels.

The highlight for me personally in 2017 was the inaugural European Ombudsman Award for Good Administration ceremony. It was wonderful to see the outstanding work of the EU civil servants in attendance, and above all to witness the justifiable pride in their work.

So, 2017 was a busy and successful year and my office looks forward to building on that success in the year ahead, and again with the very welcome engagement of all of the EU staff that we work with.

Emily O'Reilly

1 2017 at a glance

January

Inquiry opened into the ECB's involvement with the 'Group of Thirty'

February

Ombudsman asks EEAS to pay trainees in EU foreign delegations

March

Winners of the Award for Good Administration announced

April

Ombudsman receives Schwarzkopf Europe Award in Berlin

May

Commission pledges unprecedented transparency in Brexit negotiations



June

European Network of Ombudsmen annual conference in Brussels

July

Inquiry opened into pre-submission activities of the EMA

August

Council replies to Ombudsman on the accountability of its legislative work

September

Ombudsman welcomes proposals to strengthen ethics rules governing European Commissioners

October

EU agencies – How to manage the risk of reputational damage – Ombudsman event

November

Ombudsman presents her work in the European Parliament

December

Letter to President Tusk on lobbying transparency

2 Key topics

The European Ombudsman helps members of the public as they engage with the EU institutions, bodies and agencies. Problems that arise range from lack of transparency in decision-making or refusal of access to documents to violations of fundamental rights to contractual issues.

2.1 Access to EU documents

Access to EU documents, and related transparency cases, continued to account for the greatest proportion of inquiries in 2017. Given that access to document requests are often time-sensitive, the Ombudsman decided to introduce a new Fast-Track procedure for these complaints, meaning individuals can potentially get the documents they are looking for within weeks, rather than months. The office started applying the Fast-Track system under a



trial phase in autumn 2017 and will roll it out during 2018.

Alice Stollmeyer

#Transparency complaints keep @EUombudsman busy. #TeamJunckerEU #EUinstitutions #EUagencies

Transparency complaints keep the European Ombudsman busy

Most complaints were about the European Commission, followed by EU agencies.

The trial phase has already illustrated the advantages of the accelerated system for the complainant. An inquiry regarding access to documents, concerning the Commission's decision to stop infringement procedures against Hungary over a nuclear power plant contract, resulted in the complainant receiving the majority of the documents requested within one month.

Other inquiries opened under the Fast-Track procedure include one concerning documents from the Commission related to leaks and another concerning Council assessments of candidates' suitability to be Judges and Advocates-General at the Court of Justice and the General Court of the EU.

One successfully concluded access to documents case in 2017, conducted before the start of the Fast-Track, related to the European Border and Coast Guard Agency (Frontex). The case concerned the how Frontex handled a request, made by a journalist, for public access to all 'serious incident reports' relating to operations by Frontex that took place in Bulgaria between 2015 and 2016. The journalist turned to the Ombudsman as he was concerned that Frontex was not giving him all the relevant documents, and that some of the redactions were not in line with EU rules on access to documents (Regulation 1049/2001).

After conducting an inspection of the documents available, the Ombudsman proposed that Frontex withdraw some of the redactions; release more documents and improve its internal document search system. Frontex implemented these proposals and praised the good co-operation with the Ombudsman's office, saying that the findings helped raise internal awareness about necessary improvements to how it deals with access to document requests.

Access to documents complaints – Fast-Track timeline targets 1 This outline applies to "normal" Regulation 1049 cases which are not very complex in nature.

Note: The term "day" refers to a working day. Counting commences from the first working day after the receipt of the document.

2.2 Accountability in EU decision-making

For Europeans to feel they have a stake in the EU, they must be able to follow evolving discussions on draft laws. Not only is this healthy from a democracy point of view, but it can



have the practical effect of clearing up any misconceptions about how EU laws are made and what role national governments play. With this in mind, the Ombudsman in March opened a strategic inquiry into the openness and accountability of the legislative work in the Council of the EU. She put 14 specific questions to the Council on how legislative documents arising from meetings of Member State Ambassadors and Deputy Ambassadors, plus the over 150 committees and working parties of national civil servants, are handled in accordance with EU transparency laws and standards.

Following the Council's reply, which pointed to improvements in the Council's website and record-keeping system, the Ombudsman launched a public consultation. It included questions on what measures the Council could take to make legislative documents easier to find; what difficulties the public faces in trying to obtain documents linked to Council preparatory bodies; and how important it is to know the individual positions of Member States. There were 21 submissions to the consultation, including contributions from parliaments, civil society and individuals. The Ombudsman also decided to inspect documents relating to three sample legislative acts from 2016 in order to see the internal process for recording, categorising and disclosing documents as draft EU laws through the Council. This inquiry will conclude in 2018.

In late 2017, the Ombudsman turned her attention to the European Council, which decides on the EU's overall direction and political priorities. Given its vital strategic role, the Ombudsman wrote to European Council President Donald Tusk to ask whether he would consider publishing information about meetings he and his cabinet hold with interest representatives.

EPACA

Working for greater #EUTransparency across all Institutions: @EUombudsman public consultation on Council preparatory groups' transparency in the legislative process

Working for greater EU Transparency across all institutions: the European Ombudsman's public consultation on the transparency of the Council of the EU's preparatory groups in the legislative process.

The Ombudsman also asked President Tusk whether progress reports on evolving discussions by EU leaders on their two-year work programme (the Leaders' Agenda) will be published.

European Ombudsman

@EUombudsman suggests that @eucopresident Tusk holds meetings only with registered lobbyists <http://europa.eu/!vK37fT> #eucouncil #euco

The European Ombudsman suggests that the President Tusk holds meetings only with registered lobbyists.



“Publishing his meetings with lobbyists will allow President Tusk to give citizens a more complete picture of who is trying to influence EU decision-making, when and how.” Emily O’Reilly

As part of her aim to make EU law-making more accessible and accountable, the Ombudsman also looked into the openness of trilogues – the informal negotiations on EU legislative proposals between the European Parliament and the Council of the EU in the presence of the European Commission. The three institutions replied with details on how they were putting into place the Ombudsman’s proposals (made in 2016). The welcome changes include beginning work on a joint legislative database, making it clearer which senior figures are negotiating trilogues and assessing how to make more easily available the dates of upcoming trilogues and summary agendas.

While the inquiries into the transparency of trilogues and the Council’s legislative processes concerned the making of EU laws, sometimes more public information is needed about laws already agreed. This was the case with the system the Commission uses to ensure that EU laws are being properly implemented in Member States. Known as the EU Pilot, it is a way for the Commission to follow up with Member States without resorting to a legal infringement procedure. After receiving complaints that the system was too opaque, the Ombudsman decided to open a strategic inquiry asking for details concerning the programme, including what the Commission does when a Member State repeatedly delays answering or does not answer with enough detail. The Ombudsman closed the inquiry in September with practical proposals to make it easier for the public to follow the Commission’s action in this area, including that it should make publicly available the list of ongoing EU Pilot dialogues and the status of each file.

European Ombudsman

The Ombudsman welcomes Commission President @JunckerEU commitment to ‘unique and unprecedented’ transparency
[https://www.ombudsman.europa.eu/en/press/release.faces/en/79475/html.bookmark ...](https://www.ombudsman.europa.eu/en/press/release.faces/en/79475/html.bookmark...)
#Brexit

The European Ombudsman welcomes the European Commission President Jean-Claude Juncker’s commitment to “unique and unprecedented transparency”.

“My office will be watching to ensure the current proactive approach to transparency is maintained throughout the Brexit talks.” Emily O’Reilly

The Ombudsman wrote to the Commission and the Council ahead of the formal opening of Brexit negotiations to remind both institutions of the importance of transparency, given the wide-ranging implications of the terms of Britain’s EU exit for individuals, their families and businesses. Both institutions responded positively, with the Commission saying it would exercise unique and unprecedented transparency and the Council drawing up “guiding principles” for the publication of documents. The Ombudsman’s letter also noted the importance of publishing stakeholder input, a matter that is likely to take on greater



significance as the negotiations advance. Ms O'Reilly also separately reminded her counterparts in the European Network of Ombudsmen that they can use her office as a conduit for expert replies on Brexit matters of EU law and practice from the Commission and other EU institutions.

2.3 Lobbying transparency

The European Ombudsman, Emily O'Reilly, speaking at the "EU Transparency Register – lobbying, Parliament & public trust" workshop, which the European Parliament organised in May.

The Ombudsman's major strategic inquiry into the openness of expert groups – the hundreds of groups that provide the Commission with specialist input – came to a successful conclusion in autumn 2017. The Ombudsman in 2016 – taking into account a public consultation on the matter – made a series of proposals for improving the Commission's oversight of these groups. The Commission in mid-2016 announced an overhaul of the applicable rules. The Ombudsman's final decision was published in autumn 2017, a timeframe that allowed the office to analyse whether the announced reforms had actually been implemented.

The changes to the system included the introduction of legally-binding rules and political accountability. In addition, members of expert groups must be on the Transparency Register; there should be public calls for membership of a group and a conflict of interest policy for individual experts. The Ombudsman said she would continue to monitor how the Commission implements her two specific recommendations concerning expert groups, that is, the publication of "meaningful and complete" minutes, and that a group's deliberations should, as a general rule, be transparent.

Following another complaint on the issue, the Ombudsman opened an inquiry into the involvement of the European Central Bank (ECB) with the ' Group of Thirty ' (G30), a private US-based group that brings together the heads of some major private banks and central banks, as well as members from academia and international institutions. Some of the global banks represented are supervised by the ECB. The Ombudsman's decision to open this inquiry reflected the greater banking supervisory responsibilities the ECB has gained in recent years. Following a meeting between Ombudsman case-handlers and representatives of the Bank to inspect and discuss documents related to the nature of the ECB's involvement with the G30, the Ombudsman put several specific questions to the ECB.

These asked about the composition and financing of the G30; whether the ECB will make the agenda and content of G30 meetings public; the number of meetings current and former ECB presidents have attended; and whether G30 members include banks currently supervised by the ECB. The ECB replied that it considered the G30 meetings to be in the public interest and that ECB President Mario Draghi's membership of the G30 is compatible with the independence and integrity of the ECB. After analysing the reply, the Ombudsman recommended that Mr Draghi suspend his membership of the G30 for the remainder of his term in office in order to protect the Bank and its President from any perception that the Bank's independence could be compromised. The Ombudsman also recommended that



future presidents of the ECB do not become members of the G30.

The Ombudsman used her annual press conference, in May, to formally launch the “DOs and DON'Ts” list to guide public officials on how they should interact with lobbyists. The list, which has been distributed in the Commission and Council, as well as disseminated on Twitter, serves as a useful guide for EU public officials to ensure that they are aware of the different types of lobbying activities.

2.4 Fundamental rights

The Ombudsman regularly deals with complaints concerning fundamental rights, such as equality and non-discrimination. November 2017 saw the successful conclusion of a complaint by a young Austrian who had done an unpaid traineeship in an EU delegation in Asia. The Ombudsman recommended that trainees in EU delegations be paid an appropriate allowance based on the cost of living in the country where the delegation is located, thereby opening up these valued placements to as wide a pool of people as possible. The High Representative Federica Mogherini responded positively to this recommendation. The Ombudsman then wrote to the budgetary authorities to underline the importance of the issue, including the fact that it would demonstrate that the EU is committed to the principle of non-discrimination by making traineeships available to at least some of those who have more limited financial resources than others. In November, the Parliament and Council approved the 2018 budget, which allocates EUR 1.2 million for paying trainees in EU delegations.

Spanish NGOs and citizens turned to the Ombudsman with a complaint about the Commission concerning the EU-Turkey deal, agreed in 2016. Under the deal, Turkey takes back irregular migrants coming to Greece, while the EU agreed to send more aid to Turkey. The complainants accused the Commission of failing to reply, or of replying inadequately, to the concerns they had expressed about the lack of an assessment of the agreement's impact on the human rights of the asylum seekers and the migrants returned to Turkey from Greece. The Ombudsman called on the Commission to include in its future progress reports on the implementation of the agreement a separate section focusing on human rights risks and measures to reduce them.

In a separate move, the Ombudsman wrote to the Council to note that the only authoritative source of information about the EU-Turkey deal was a press release. She pointed out that the General Court of the EU had, in early 2017, said that the EU-Turkey Statement could not be considered as a measure adopted by the European Council or any other EU institution. She therefore called on the Council to consider reviewing the wording of the press release so it more accurately reflects the legal reality.

European Ombudsman

#EOpress : Ombudsman welcomes EU decision to pay trainees in EU foreign delegations
<http://europa.eu/!TR48JV>



The European Ombudsman welcomes the EU's decision to pay trainees in EU foreign delegations.

"This sends the message that the EU is committed to the principle of non-discrimination by making traineeships available to at least some of those whose financial resources are less than others." Emily O'Reilly

2.5 Ethical issues

Following several public interventions by the Ombudsman about the importance of strong ethics rules for Commissioners, and following pressure from the European Parliament and several civil society groups, the Commission in September announced proposals to again reform the Code of Conduct for Commissioners, as well as the Ethics Committee. Among other things, the Ethics Committee examines whether the planned activities of Commissioners after leaving office are compatible with their Treaty obligations. The changes include an extension of the 'cooling-off period' during which ex-Commissioners must inform the Commission of an intention to take up a professional activity; the new notification period for Commissioners will be two years, and increased to three years in the case of an ex-Commission President. Another change is that the Commission will proactively publish the Ethics Committee's opinions on Commissioners' post-mandate jobs. The Commission's actions and the Ethics Committee's powers and role were also the subject of an Ombudsman inquiry. Ombudsman case-handlers inspected how the Ethics Committee drew up its opinions in relation to several former members of the Commission (files chosen simply to illustrate the Ethics Committee's work) and put several questions to the Commission concerning how the Ethics Committee carries out its work. The Ombudsman's analysis of the Commission's response, and the changes it publicly announced, will appear in 2018.

The Ombudsman also closed her inquiry into the Commission's rules for preventing conflicts of interests of special advisers – experts who, on an ad hoc basis, provide specialist advice to Commissioners. Over the course of the inquiry, the Commission improved the system so that, in June, the Ombudsman concluded that the rules represent a broadly satisfactory basis for managing potential conflicts of interests. She nevertheless suggested that the Commission could undertake further improvements, including adopting a more proactive approach to its assessments of conflicts of interests and enhancing citizens' access to information on special advisers.

Implementing rules on the so-called "revolving doors" challenge – where EU staff members sometimes leave to work for the private sector or where individuals join an EU institution from the private sector – is central to maintaining high ethical standards in public administrations. In this light, the Ombudsman wrote to 15 institutions and agencies to ask them how they implement EU rules on "revolving doors", as laid out in the Staff Regulations (Article 16).

Under these rules, senior officials are prohibited for one year from lobbying former



colleagues on issues for which they were responsible during their last three years in the service. They also oblige each institution to publish annually information on the implementation of this obligation, including a list of the cases assessed. The Ombudsman also followed-up on an earlier inquiry by looking into how the Commission is implementing her guidelines and suggestions on how to improve its handling of “revolving doors” situations. This analysis is due in 2018.

European Ombudsman

Post-mandate activities - why did the @EU_Commission not issue a decision in the case of its former President? <https://www.ombudsman.europa.eu/cases/correspondence.faces/en/81348/html.bookmark> ...

Post-mandate activities: why did the European Commission not issue a decision in the case of its former President, José Manuel Barroso?

“Former EU Commissioners are obliged to behave with integrity and discretion regarding posts or benefits they accept after they leave office.” Emily O’Reilly

2.6 EU agencies and other bodies

EU agencies and other bodies were the second biggest subject source of complaints in 2017. One complaint the Ombudsman closed concerned how the European Medicines Agency (EMA) handled questions related to human papillomavirus (HPV) vaccines. Specifically, the Ombudsman looked into how the EMA carried out a referral procedure – the technical name for a procedure dealing with questions relating to medicines already on the market – concerning the HPV vaccine for the cervical cancer vaccine.

The referral procedure was conducted by the EMA’s Pharmacovigilance Risk Assessment Committee, which monitors the safety of medicines on the market. The Committee looked into whether there was a causal link between the HPV vaccination and two syndromes, and concluded that there was no evidence of such a link. The Ombudsman found that the Committee’s examination of the scientific evidence was complete and independent. Looking to the future, Ms O’Reilly suggested that the EMA provide as much information as possible on the scientific work of its committees, and that it provide more information about the documents it has, so that members of the public can more easily request access to them.

EU Medicines Agency

The @EUombudsman concluded that EMA’s safety review of HPV vaccines was complete and independent <http://bit.ly/2hMeFOF> #vaccineswork

The European Ombudsman concluded that the safety review that the EMA conducted with regard to HPV vaccines was complete and independent.



The EMA was also the subject of a separate inquiry by the Ombudsman in 2017, this time one that Ms O'Reilly undertook on her own initiative. This strategic inquiry concerned the EMA's arrangements governing interactions with pharmaceutical companies before those companies submit applications for market authorisations. The Ombudsman noted that such interactions are in the public interest if they help the development and availability of high quality, effective and acceptably safe medicines, but that there is a risk they might influence subsequent EMA decisions on market authorisation applications.

The European Ombudsman's public event entitled "EU agencies: How to manage the risk of reputational damage" in October with panellists (from left to right): Tracey Brown, Director of Sense about Science; Bernhard Url, Executive Director of EFSA; Emily O'Reilly, the European Ombudsman; event moderator, Dave Keating; Monique Goyens, Director-General of the BEUC; and Jukka Malm, Deputy Executive Director of the ECHA. The European Ombudsman, Emily O'Reilly, with panellist Bernhard Url, Executive Director of the EFSA and moderator, Dave Keating, at the European Ombudsman's public event entitled "EU agencies: How to manage the risk of reputational damage" in October.

In September, Ombudsman case-handlers met EMA representatives to discuss the EMA's initial response to the inquiry. A report of that meeting – going further into detail on about the Ombudsman's concerns about these so-called pre-submission activities – was published in December. The inquiry continued into 2018, with a targeted public consultation planned in the first quarter.

The European Food Safety Authority (EFSA) was the subject of a complaint by a French association, which accused the EFSA of not responding adequately to a number of questions about its role in the authorisation of a genetically-modified maize variety. The EFSA followed the Ombudsman's proposal by giving more information to the complainant. The Ombudsman also suggested that, in future, the EFSA should make public the additional information provided by applicants in reply to its requests for clarifications.

The Ombudsman regularly hosts public events to examine topics related to her work in depth. In October, the topic was EU agencies and how they can manage the risk of reputational damage. With agencies helping to guarantee everything from the safety of the food we eat, the chemicals we are exposed to, the medicines we take and the airplanes we fly in, public trust in their work is paramount. The event examined how agencies can implement the highest ethical and transparency standards so as to protect themselves from reputational damage.

The panellists were Bernhard Url, Executive Director of the European Food Safety Authority (EFSA); Jukka Malm, Deputy Executive Director of the European Chemicals Agency (ECHA); Monique Goyens, Director of the European Consumer Organisation (BEUC); and Tracey Brown, Director of Sense about Science. Mr Url noted that the EFSA tries to ensure public trust in its work both by focusing on "competence" – the quality of its work – but also on "character" – the way in which it carries out its work. Mr Malm noted that the ECHA aims to make its work fully transparent, meaning not only the results of research it has already carried out, but also looking forward to what work it is planning to carry out.

Bernhard Url



Thank you for the lively debate we had on a crucial matter for #EUAgencies : public #trust in our work #EOdebate17

Bernhard Url, Executive Director of the EFSA: "Thank you for the lively debate we had on a crucial matter for EU agencies: public trust in our work".

2.7 EU contracts and grants

The Commission oversees a large number of projects funded by the EU. It carries out rigorous auditing to ensure that public money is being spent as it should be. However, this sometimes gives rise to disputes and contractors often turn to the Ombudsman for a solution.

For example, a Belgian-based non-profit organisation took part in an EU-funded project that aimed to address issues faced by older people in using ICT solutions. The organisation turned to the Ombudsman after the Commission said it wanted to recover more than EUR 85 000 due to what it said was an unreliable system for recording working time. The Ombudsman inquired into the matter and found that the auditors had recognised that the work done by the complainant on two specific 'deliverables' was legitimate, as was the working time involved. She therefore suggested the Commission reduce the amount it was seeking to recover in relation to these two 'deliverables'. The Commission accepted her proposal, lowering the amount it recovered by almost EUR 37 000. The Ombudsman's inquiry into other aspects of the proposed recovery is still in progress.

A Dutch consultancy firm specialising in innovation was a member of a consortium that had carried out a project co-financed by the Commission, aimed at creating and implementing a 'water innovation partnership'. The firm turned to the Ombudsman after the Commission said it would reduce the grant, citing concerns over the project. The complainant countered that the Commission had not evaluated the project properly. During the inquiry, the Commission proposed that it would re-evaluate the project, taking into account new documentation provided by the consultancy firm. The Ombudsman considered the matter settled and closed the case.

2.8 Citizen participation in EU policy-making

The European Citizens Initiative (ECI), launched in 2012, allows citizens to express support for a policy or idea, for which they believe the Commission should legislate. One of the first initiatives taken by current Ombudsman Emily O'Reilly, after being elected in 2013, was to open a strategic inquiry into the proper functioning of the ECI procedure, amid concerns that there were too many technical hurdles facing organisers of ECIs for handing in a successful initiative. The Ombudsman made several proposals to make the process for gathering signatures easier and for introducing more transparency in the selection of initiatives.



In 2017, the Ombudsman also contributed to the Commission's consultation on how to reform the ECI Regulation. The Commission's proposals – announced in September – contain many of the features the Ombudsman has suggested in the past. These include establishing a free online collection system for ECIs; simplifying the data requirements; and improving the preparation of, and public participation in, hearings after a successful ECI. The Ombudsman will continue to follow this issue closely, including monitoring whether the Commission adequately explains its choices on ECIs to the public.

ECI Campaign

. @EUombudsman backs plea for #ECI revision. Thank you, Emily O´Reilly! #ECIreform #deardemocracy @Volksentscheid <http://www.citizens-initiative.eu/european-ombudsman/>
...

The European Ombudsman backs plea for revision of the ECI. Thank you Emily O'Reilly!

Another way of involving citizens in the EU policy process is through the use of public consultations on planned legislation. The Commission, which is responsible for drawing up EU laws, regularly makes use of these consultations. However, their usefulness as a tool depends on how accessible they are to individuals and organisations. In 2016, a Spanish citizen complained to the Ombudsman that public consultations were seldom in all 24 of the official EU languages. In the course of the inquiry, the Commission prepared a new and improved language policy on public consultations.

The new measures, which became applicable on 28 April 2017, include, for example, translating the public consultations related to the Commission's work programme into all EU official languages. The new policy also introduced a procedure to determine into which languages other public consultations should be translated. The Ombudsman, in a decision in December, said she would monitor the implementation of the new regime, and suggested that the Commission, on its dedicated website on public consultations, include a section describing its new language policy and explain why some consultations are not available in all EU languages.

3 Communication and co-operation

3.1 Award for Good Administration

In March, the Ombudsman hosted the prize-giving ceremony for the first ever Award for Good Administration. The award saw 90 projects nominated from the main EU institutions, as well as many agencies and other bodies. Prizes were awarded in seven categories, with the overall Award for Good Administration 2017 going to a project in the Commission's Directorate-General for Health and Food Safety, which promoted EU collaboration in the sharing of vital information and expertise to help millions of Europeans suffering from rare diseases.



The nominations ranged from innovative ways of involving citizens in policy-making; to drawing up easy-to-access databases; to providing public-friendly explanations of EU policies and programmes; to live-streaming expert meetings; and using IT to bring services to the public in a more efficient and open manner. The medical service of the Council of the EU also received a special award for its work, including helping victims of the Brussels Metro terror attack of 2016.

The overall winners of the European Ombudsman's Award for Good Administration 2017, from the Commission's Directorate-General for Health, receiving their prize from the European Ombudsman, Emily O'Reilly.

The Award showcased the individual and collective efforts within the EU civil service to make a positive difference. The Ombudsman noted that, while her office holds the EU civil service to account, part of this oversight role also entails recognising when a task is well done. She also remarked on how fitting it was that the inaugural award ceremony occurred around the significant anniversary of the Treaty of Rome.

European Ombudsman

We have received some outstanding projects for the #EOAward & they are worth knowing in detail. Have a look here: <http://europa.eu/!UN47uU>

We have received some outstanding projects for the European Ombudsman's Award for Good Administration and they are worth knowing in detail.

The prize-giving ceremony of the first European Ombudsman's Award for Good Administration.

3.2 Communications

The Ombudsman's five-year strategy "Towards 2019" aims to increase the impact, relevance and visibility of the office. Greater visibility helps to ensure the public, businesses, NGOs, and others know to whom they can turn should they encounter problems with the EU institutions.

Thanks to effective implementation of the strategy, the office has also seen an increase in the overall number of complaints handled in 2017 (from 1 880 to 2 181), as well as in the number of complaints received that are within the Ombudsman's mandate (from 711 to 751). This increase also included a rise in the number of cases that are more complex and affect more and more issues in the wider public interest.

Aside from specific outreach to stakeholders, such as a business associations and civil society organisations, the office also seeks to raise the profile of the Ombudsman in media and social media, using these platforms to provide information about specific inquiries or draw attention to other Ombudsman activities.

The office's Twitter account @EUOmbudsman saw a 16% rise in followers (now more than 19 000) between 2016 and 2017, with a tweet welcoming the Commission's commitment to



“unique” and “unprecedented” Brexit transparency being among the most popular. Other popular tweets concerned the prize-giving ceremony for the Award for Good Administration, as well as the Ombudsman’s inquiry asking the ECB to clarify its involvement with the Group of Thirty. The office also expanded its social media presence to Medium and Instagram to bring the Ombudsman’s work to new audiences.

The office continued work on overhauling its website to make it more user-friendly. This new website will be launched in 2018.

Gundi Gadesmann

. @EUombudsman O’Reilly discusses #Council & #lobbying transparency and #ParadisePapers with Nordic journalists

The European Ombudsman, Emily O’Reilly, discusses Council of the EU and lobbying transparency, and Paradise Papers with Nordic journalists.

3.3 Relations with EU institutions

The European Ombudsman in a meeting with the President of the European Parliament, Antonio Tajani.

3.3.1 European Parliament

The strong and enduring relationship with the European Parliament is of great importance to the European Ombudsman. The European Parliament is the voice of all Europeans and elects the Ombudsman, who helps European citizens and residents facing problems with the EU’s administration. The Ombudsman addressed a plenary session of the Parliament and in several parliamentary committees during the year, and her staff frequently represented the institution in parliamentary meetings, hearings and events. The Ombudsman had a successful first meeting with newly-elected Parliament President Antonio Tajani in early 2017, and had meetings with numerous Members of the European Parliament from diverse committees and across the political spectrum.

Cecilia Wikström, Chair of the European Parliament’s Committee on Petitions, during the 2017 annual conference of the European Network of Ombudsmen.

3.3.2 Committee on Petitions

The Committee on Petitions provides a strong link of both accountability and mutual support between the Ombudsman and the European Parliament. A strong collaboration between the two is crucial for effectively serving members of the public who raise their concerns to either of the two. The Ombudsman views her relationship with the Committee on Petitions as highly important and appreciates the fruitful co-operation. The ongoing support from the Committee’s Chair, Ms Cecilia Wikström, and from all Members encourages the Ombudsman in her work to further help the EU institutions to set the “gold standard” for good administration.



The European Ombudsman with Frans Timmermans, European Commission First Vice-President responsible for Better Regulation, Interinstitutional Relations, the Rule of Law and the Charter of Fundamental Rights.

3.3.3 European Commission

The European Commission is not only the executive but the largest institution of the EU, and its work impacts on the lives of millions of people throughout Europe, directly and indirectly. Because of this, it is not surprising that a large percentage of the complaints to the Ombudsman concern the Commission's work. In 2017, the Ombudsman was pleased to be able to encourage, and again welcome, several measures that the Commission, under President Juncker, took to improve its already high standards of public administration. However, many challenges still remain. An open and honest working relationship between the two institutions helps to improve the efficiency and effectiveness of the Ombudsman's complaint-handling.

3.3.4 Other institutions, agencies and organisations

The Ombudsman also of course continues to maintain close relations with all other EU institutions, agencies and organisations. In 2017, the Ombudsman was in close contact with the European Data Protection Supervisor (EDPS), the European Economic and Social Committee (EESC), the European Union Agency for Fundamental Rights (FRA), the European Central Bank (ECB), the European Investment Bank (EIB), the Court of Auditors (ECA), and others. Strong relationships with all of the EU institutions, bodies and agencies are an important element of the "Towards 2019" strategy of the Ombudsman in order to create a more open and service-oriented EU administration for the benefit of all those living in Europe.

EESC

. @EUombudsman in reply to Members: we have so much in common when it comes to fight for #transparency , we should cooperate more! #EESCplenary

The European Ombudsman in reply to members of the EESC during its plenary: we have so much in common when it comes to the fight for transparency that we should cooperate.

3.3.5 UN Disability Rights Convention

As a member of the EU Framework , the Ombudsman protects, promotes, and monitors the implementation of the United Nations Convention on the Rights of Persons with Disabilities (CRPD) by the EU administration.



The Ombudsman's strategic inquiry on whether the treatment of persons with disabilities under the Commission's Joint Sickness Insurance Scheme (JSIS) complies with the CRPD continued in 2017. The Ombudsman's inquiry team met the Commission to get further information and, in November, the Ombudsman launched a consultation targeting associations of EU staff members with disabilities or whose family members have disabilities, and the European Disability Forum (EDF).

European Blind Union

. @EUombudsman opens strategic inquiry into accessibility of @EU_Commission websites & online tools #a11y #CRPD

The European Ombudsman opens a strategic inquiry into the accessibility of the European Commission's websites and online tools.

In July, the Ombudsman launched a strategic inquiry on the accessibility of websites and online tools that the Commission manages. The Ombudsman raised issues such as the assessment of accessibility, easy-to-read formats, and training of Commission staff members. In October, the Commission committed to improve the accessibility of its websites. It said, for example, that it could initiate a pilot project on the inter-institutional portal to make some general information pages about the EU available in easy-to-read format. The Commission also said it would consider mandatory accessibility courses for its web designers, web developers and webmasters.

In 2017, the Ombudsman continued her efforts to make her own office's website more accessible and user-friendly. An external contractor assessed and validated the conformity of the Ombudsman's website with the Web Content Accessibility Guidelines (WCAG 2.0), compliance level AA (maximum AAA). The Ombudsman intends to repeat this exercise every two years.

The Ombudsman made an accessibility statement available on her website in July. It indicates which parts of the website are not accessible, giving users the possibility to request an accessible format and linking to a feedback mechanism to report problems. The overhaul of the Ombudsman's website is an opportunity to comply with as many AAA requirements as possible.

One of the complaints the Ombudsman received concerned the issue of persons with disabilities being stigmatised by a picture warning being used on tobacco products because it showed a person in a wheelchair alongside a text stating "smoking causes strokes and disability". The Ombudsman advised that, in future, it would be helpful to consult relevant civil society groups as to the choice of images, before they become publicly-available.

The Ombudsman's office continued its efforts to increase awareness of the CRPD. In March, representatives of the Ombudsman, the Parliament, and the EU Agency for Fundamental Rights (FRA) co-hosted a publicly-available webinar. The webinar was organised by the European Union Agency for Law Enforcement Training (CEPOL) and clarified what the CRPD



means for the EU administration, and presented practical tools for implementing it. In December, the Ombudsman participated in the 4th European Parliament of Persons with Disabilities.

The European Ombudsman speaking at the 4th European Parliament of Persons with Disabilities.

3.4 European Network of Ombudsmen

Complaints transferred to other institutions and bodies; complainants advised to contact other institutions and bodies by the European Ombudsman in 2017 (1 148 in total)

Note: As in some cases the Ombudsman gave the complainant more than one type of advice, the above percentages total more than 100%.

The year 2017 was eventful for the members of the European Network of Ombudsmen (ENO), which consists of 96 offices in 36 European countries and the European Parliament's Committee on Petitions.

The main Network event in 2017 was the second annual conference, which the European Ombudsman organised in Brussels in June. The conference brought the entire Network together, along with other participants, mostly from Brussels-based umbrella groups and journalists. In total, around 240 people attended.

Once again, the conference took place at a key moment in the history of the European Union: while last year's conference took place shortly before the UK referendum on EU membership, this year's coincided with the start of Brexit negotiations. One of the items on the agenda was how to maximise transparency and certainty for EU citizens in the Brexit context. Uncertainty about post-Brexit rights and the right to move freely are among the key concerns of citizens directly affected by Brexit. These are UK citizens living in the EU and EU citizens residing in the UK.

The conferences also examined ways of building inclusive societies to combat populism and facilitate integration. Many people consider 2016 to be the year of the populist, however discussions at the conference demonstrated that ombudsmen continue to work hard to promote trust in democratic institutions and combat the populist narrative. Among other activities, they are involved in monitoring whether human rights obligations are complied with in the context of forced returns of asylum seekers, guiding applicants of family reunification and assisting asylum seekers in accessing language learning and, ultimately, the workforce.

The panellists of the first session of the 2017 conference of the European Network of Ombudsmen (left to right): Sanjay Pradhan, Chief Executive Officer, Open Government Partnership; Bart Somers, Mayor of Mechelen in Belgium; Jacques Toubon, Defender of Rights of France; Gero Storjohann, Deputy Chair of the German Federal Petitions Committee; and Emily O'Reilly, European Ombudsman.

Also on the conference's agenda was the role of ombudsman institutions in strengthening open government, a culture of governance inspired by the principles of transparency, accountability and participation. In this context, we received the preliminary results of a joint Organisation for Economic Co-operation and Development (OECD) and European



Ombudsman survey. Eighty-six national and sub-national ombudsman offices from 59 countries and territories across the world participated in this survey on their role in open government.

Shada Islam

Absolutely convinced of role of #EU ombudsmen in ensuring citizens' rights & transparent government #ENO2017 .

Absolutely convinced of the role of EU ombudsmen in ensuring citizens' rights and transparent government.

The survey found that open government principles are well rooted in the ombudsman institutions' practices, even though few recognise their contribution. The full results of the survey will be published in September 2018, but the 2017 issue of *Network in Focus*, the ENO's annual publication, contains the survey's preliminary results and other key topics discussed at the Brussels conference.

In September, the Ombudsman and the Commission co-organised a workshop to promote co-operation between the Commission and national and regional ombudsmen, and to ensure greater protection of citizens' rights, in accordance with EU law. Among the practical suggestions put forward were the establishment of an interactive guide on the powers of each national or regional ombudsman and increased co-operation on the interpretation and implementation of EU law.

The ENO continued to focus on parallel inquiries and initiatives among interested ombudsman offices in areas of mutual interest. In July 2017, the European Ombudsman opened an inquiry into how the Commission's dealt with an infringement complaint against the Dutch authorities, after they had refused to grant a visa to the complainant's spouse, a third country national. The European Ombudsman sought the help of the National Ombudsman of the Netherlands, who found no evidence that Dutch immigration services wrongly apply the relevant EU rules.

In 2017, the European Ombudsman dealt with six new queries from the Network. In one of them, the Finnish Ombudsman sought to find out whether the EU's rules on rail passengers' rights were compatible with the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). The Commission replied that indeed they are, noting that it was assessing the impact of the Rail Passengers' Rights Regulation in order to review it and improve the rights of persons with disabilities or reduced mobility when travelling by rail in the EU.

Another issue, raised by the Bulgarian Ombudsman, concerned discrimination arising from the marketing of lower quality products in the central and eastern European Member States. The Commission replied that it would analyse data it had requested from the national authorities in charge of consumer protection. The Ombudsman asked the Commission to inform her in early 2018 on the progress it has made on the issue.



The European Network of Ombudsmen 2017 conference in its first plenary. During her mission to Denmark in September, the Ombudsman held meetings with the Danish Ombudsman as well as Danish politicians. She also spoke at public events with journalists, academics and other interested persons on her work in the area of transparency and accountability in the EU.

Earlier in the year, the Ombudsman travelled to Berlin where she participated in a meeting of the German Bundestag's Committee on Petitions, and met senior government officials including Mr Peter Altmaier (Chief of Staff of the Chancellery) to discuss matters relating to the EU administration. She received the Schwarzkopf Europe Award 2017 from the Schwarzkopf Stiftung, an award which has been won in the past by the President of the European Commission, Jean-Claude Juncker, and the former President of the European Parliament, Martin Schulz.

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The European Ombudsman, after receiving the Schwarzkopf Europe Award 2017. She is pictured with (right) André Schmitz-Schwarzkopf, and (left) Irish Ambassador to Berlin, Michael Collins.

Gundi Gadesmann

Application of EU law, complaint handling - @EU_Commission and @EUombudsman seminar with representatives from national ombudsmen offices BXL

European Commission-European Ombudsman seminar on the application of EU law and complaints-handling, with representatives of national ombudsman offices.

EU-Parlamentet i DK

"Great appetite for good quality journalism in era of fake news". @EUombudsman O'Reilly talking to DK journos in Aarhus #kveu #eudk

"Great appetite for good quality journalism in an era of fake news", said the European Ombudsman, Emily O'Reilly, while addressing Danish journalists in Aarhus, Denmark.

4 Complaint-handling: how we help

The European Ombudsman exists to help individuals, academics, businesses, and other organisations that are facing problems with the EU's administration. It should be as easy as possible for them to access the Ombudsman, and the office aims to be as flexible as possible in how it assists those who seek help.

The Ombudsman's new implementing provisions made the procedure for handling complaints more efficient and effective. This results-oriented approach has further improved



the service the Ombudsman offers the public and has enabled the institution to have a greater impact in 2017.

The Ombudsman's case-handling team cover a wide variety of issues and provide assistance to those who contact the Ombudsman in all 24 official languages of the EU. All those who submit a complaint to the Ombudsman should receive an acknowledgment of receipt within two working days.

If a complaint results in an inquiry, the length of the inquiry depends on different issues, including the complexity of the case. Given the often highly time-sensitive nature of complaints about access to documents held by other EU institutions, the Ombudsman introduced a new Fast-Track procedure in 2017 for handling these cases.

4.1 Type and source of complaints

4.1.1 Overview of complaints and strategic inquiries

Advice, complaints and inquiries in 2017

While the vast majority of the office's work is complaint-based cases, the Ombudsman also conducts wider strategic inquiries and initiatives when she considers that there are grounds to do so. These cases are launched on the Ombudsman's own initiative, either where she has identified a systemic issue that should be looked into in the public interest, or where she has received one or more complaints on an issue of systemic relevance.

Strategic work in 2017

National origin of complaints registered and inquiries opened by the European Ombudsman in 2017

4.1.2 Complaints outside the Ombudsman's mandate

The European Ombudsman receives many complaints on issues that do not fall within her mandate, mostly because they do not concern the work of an EU institution or body. Complaints that involve EU institutions but concern purely political issues, legislative work or the judicial activity of the European Court of Justice also do not fall within the Ombudsman's mandate.

In 2017, the Ombudsman received over 1 300 complaints that did not fall within her mandate, with the greatest numbers coming from Spain, Poland and Germany.

These complaints are primarily against national public bodies, national or international courts and private entities. Sometimes complaints are based on the misconception that the Ombudsman is an appeals body over national ombudsmen. The complaints cover a broad range of areas. Recurrent themes are consumer protection, taxation, social security and



healthcare, and, in recent years, issues related to banks.

People seeking help receive replies in their own language, explaining the Ombudsman's mandate and giving advice, where possible, or transferring them to other bodies that may be able to help.

For complaints expressing discontent with EU legislation, the Ombudsman usually advises the complainant to turn to the European Parliament's Committee on Petitions. For issues concerning the implementation of EU law, complainants are advised to turn to the European Commission or EU networks such as SOLVIT or Your Europe Advice. Complainants can also be referred to national ombudsmen.

In 2017, there were two issues that attracted large numbers of similar complaints (more than 10 complaints on the same subject), but that did not fall within the Ombudsman's mandate. The first concerned statements about women made in the European Parliament by a Polish MEP; the second concerned events in Catalonia.

Number of complaints inside the mandate of the European Ombudsman 2003-2017

Number of complaints outside the mandate of the European Ombudsman 2003-2017

4.2 Against whom?

Inquiries conducted by the European Ombudsman in 2017 concerned the following institutions

4.3 About what?

Subject matter of inquiries closed by the European Ombudsman in 2017

Note: In some cases, the Ombudsman closed inquiries with two or more subject matters. The above percentages therefore total more than 100%.

4.4 Results achieved

Action taken by the European Ombudsman on complaints received in 2017

Evolution in the number of inquiries by the European Ombudsman

Note: The 2017 increase in inquiries is partly due to both an increase in complaints and the new Implementing Provisions.

Results of inquiries closed by the European Ombudsman in 2017

Note: In some cases, the Ombudsman closed inquiries on two or more grounds. The above percentages therefore total more than 100%.

Length of inquiry of cases closed by the European Ombudsman in 2017

1. Some complex cases require several rounds of consultations with the complainant and the institution concerned: the new implementing provisions are expected to reduce the length of



inquiries.

4.5 Compliance with the Ombudsman's proposals

Compliance with the European Ombudsman's proposals in 2016

For the last six years, the Ombudsman has been annually publishing a comprehensive account of how EU institutions respond to her proposals to improve EU administration. These proposals take the form of solutions, recommendations, and critical and further remarks. The compliance rate is key to measuring the impact and relevance of the Ombudsman's work.

The report *Putting it Right? – How the EU institutions responded to the Ombudsman in 2016* reveals that the EU institutions complied with the Ombudsman's proposals in 85% of instances, a slight increase from the 83% in 2015. Of the 14 institutions examined, 11 scored 100%, while the Commission – which accounts for the largest portion of inquiries that the Ombudsman conducts – scored 77%. As the report shows, the rate of compliance can vary significantly from one institution to another – from 100% in some cases, to 77% in the worst case (up from 33% in 2015). The European External Action Service (EEAS), the Council of the European Union and the European Medicines Agency (EMA), for instance, had a 100% compliance rate.

The report for 2017 will be available at the end of 2018.

5 Resources

5.1 Budget

The Ombudsman's budget is an independent section of the EU budget. It is divided into three titles. Title 1 covers salaries, allowances, and other expenditure related to staff. Title 2 covers buildings, furniture, equipment, and miscellaneous operating expenditure. Title 3 covers the expenditure resulting from general functions that the institution carries out. In 2017, budgeted appropriations amounted to EUR 10 905 441.

With a view to ensuring effective management of resources, the Ombudsman's internal auditor regularly checks the institution's internal control systems and the financial operations that the office carries out. As is the case with other EU institutions, the European Court of Auditors also audits the Ombudsman.

5.2 Use of resources

Every year, the Ombudsman adopts an Annual Management Plan (AMP), which identifies concrete actions that the office needs to take in order to implement the institution's objectives and priorities. The AMP for 2017 is the third to be based on the five-year strategy



of the European Ombudsman – “ Towards 2019 ”.

The institution has a highly qualified, multilingual staff. This ensures that it can deal with complaints about maladministration in the 24 official EU languages and raise awareness about the Ombudsman’s work. In 2017, the Ombudsman had a staff of 81.

A full and regularly updated staff list, including detailed information on the structure of the Ombudsman’s office and the tasks of each section, is available on the Ombudsman’s website .

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