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Decision

Establishing guidelines on how to deal with abusive communications and complaints which amount to an abuse of process

The European Ombudsman, having regard to Article 9.8 of the Decision of the European Ombudsman adopting Implementing Provisions, has adopted the following guidelines:

1. The purpose of the guidelines

The Ombudsman and the Ombudsman's staff should always interact with citizens politely, and they should always show respect, patience and empathy.

It is, however, important that the Ombudsman's staff have clear guidelines aimed at assisting them in dealing properly with persons whose behaviour is abusive, such as when a person addresses the Ombudsman or a staff member¹ using threatening or vulgar language or when a person's contacts with the Ombudsman are manifestly repetitive, excessive in number, pointless, petty or vexatious (see in this respect the Ombudsman's Code of Good Administrative Behaviour).

2. Types of communications covered

These Guidelines cover all communications, whether written or oral, and whether in relation to complaints or otherwise. The term "communication" includes letters, faxes, e-mails, all visual communication, such as images, pictures and videos, and all oral communication, such as telephone calls.

¹ These Guidelines are without prejudice to the Ombudsman's legal obligation, under Article 24 of the Staff Regulations, to assist any official, in particular in proceedings against any person using threatening, insulting or defamatory language, as well as the Ombudsman's legal obligation, set out in Article 4(2) of the Ombudsman's Statute, to immediately notify the competent national authorities if, in the course of inquiries, s/he learns of facts which s/he considers might relate to criminal law.

3. Abusive communications

A communication is abusive if:

It is sexist, racist, or insults persons because of their social origin, their genetic features, the language they speak, their religion or belief, their political or any other opinion, their membership of a national minority, their disability, their age or their sexual orientation;

It is egregiously defamatory or egregiously insulting to the Ombudsman, a member of the Ombudsman's staff or any other person;

It contains language which is manifestly vulgar and offensive;

It contains information that is intentionally misleading, such as intentionally falsified information or forged documents;

It is manifestly repetitive, such as when the author again raises an issue on which the Ombudsman has already provided a clear reply;

It is manifestly pointless or petty;

It is manifestly vexatious, such as when it has no useful purpose, but aims only to cause disruption or annoyance.

A communication from a complainant who submits a very large number of complaints on issues of no or minor importance may be considered to be vexatious and an abuse of process.

A communication which is manifestly unclear or confusing will not be considered abusive communication. However, if it is not possible to identify any reasonable request for action or information, the communication should be filed with a note stating that no further action is required by the Ombudsman.

4. Dealing with abusive communications

4.1 Procedure - Informing superiors and keeping a record

If a staff member encounters an abusive communication, s/he should draw up a **note** setting out the facts and the reasons why s/he considers the communication to be abusive. The note shall be submitted to the staff member's manager for information and approval. The approved note shall be saved in the relevant file.

Once the note has been approved, the staff member shall **inform the author of the abusive communication**, preferably in writing, that his/her communication is considered to be abusive and the reasons therefor. The author of the abusive communication shall also be informed that any further abusive communication



may lead the Ombudsman or the staff member so empowered to decide to cease all communication with that person on the matter in question.

Where the abusive communication occurs by telephone only, and there is no means of informing the person in writing, the member of staff who takes any subsequent telephone call should inform the person that his/her communication is considered to be abusive, the reasons therefor, and that any further abusive communication may lead the Ombudsman or the staff member so empowered to decide to cease all communication with that person on the matter in question. A short note regarding that telephone call should be drawn up and filed.

4.2 Further abusive communications

If, following the procedure set out in Article 4.1 of this Decision, the author of the abusive communication continues to make contact in an abusive manner (in writing or by telephone), the staff member concerned shall draw up a **further note** setting out the facts and suggesting that a decision be taken to no longer reply to communications from the person on the matter in question. The note shall be submitted to the manager of the staff member for information and approval. The approved note shall be saved in the relevant file.

Once the note has been approved, a **decision letter** from the Ombudsman shall be sent to the author of the abusive communication, stating that the Ombudsman will no longer reply to communications from the person on the matter in question and setting out the reasons therefor. The Ombudsman may delegate this power.

4.3 Implementation of a decision to no longer reply to abusive communications

A written communication received following a decision under Article 4.2 of this Decision shall be filed and no further action will be taken. Where the person in question makes telephone contact following such a decision, the staff member who receives the call should politely refer to the decision that has been taken (that no more calls or communications from the person will be answered) and should terminate the call.



4.4 Particularly serious cases of abusive communications

In cases where the language used is particularly abusive, because, for example, it contains serious threats, the staff member should immediately inform his/her manager and should follow the procedure outlined in Article 4.2 of this Decision without first complying with Article 4.1 of this Decision. The staff member should set out the reasons why s/he considers the communication to be particularly abusive.

In the case of telephone calls that are particularly abusive, the staff member may immediately inform the person calling that s/he believes that to be the case and that, accordingly, s/he will terminate the call and will inform his/her manager. The staff member should then follow the procedure outlined in Article 4.2 of this Decision without first complying with Article 4.1 of this Decision.

4.5 Apologies

If the author of the abusive communication writes to the Ombudsman recognising that his or her previous communication was abusive, apologises for that abusive communication and commits himself/herself not to repeat the abusive communication, the Ombudsman or the staff member so empowered may withdraw the decision referred to in Article 4.2 above. The person concerned will be informed of any such withdrawal.

5. Entry into force

These guidelines will enter into force on the date they are signed. The previous guidelines are repealed.

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