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- the presence within the delegations of a small group of permanent Members, at least for major subject areas, who would be responsible for coordination of the various procedures, the rapporteur, Members drawn mainly from the committee responsible who are familiar with the subject, and a member of the committee's Bureau;
 - the nomination of a small group of substitutes;
 - the possible participation in the internal preparatory meetings of representatives of the political groups not represented on the delegation;
- (b) establish the delegation's decision-making procedures, particularly:
- the arrangements for voting;
 - the possible delegation of voting;
 - the confidential nature of its deliberations;
- (c) grant the delegation the right to submit, following each conciliation procedure, proposals, amendments and compromises to the plenary sitting, without going through the committee responsible; this would not prevent the latter from supplementing the text in question by an oral recommendation addressed to the plenary;
- (d) introduce a limit on the power of amendment following conciliation, under Article 189b(3):
- where the Council refuses to convene the Conciliation Committee, no amendment may be tabled and only a motion confirming rejection may be put to the vote;
 - where a compromise is achieved within the procedure laid down in Article 189b(3), it must be put to the vote in its entirety; where the compromise is approved, any other amendment must fall; where the necessary majority is not obtained, there must be a vote on any motion confirming rejection, followed by each of the amendments to the compromise and any other amendments;
- (e) make possible, where there is a statement of intention to reject, the adoption of a statement explaining that intention;
- (f) grant the President of the European Parliament the power of asking the Commission to withdraw its proposal should the final conciliation procedure fail, without requiring a vote in plenary sitting or in committee;
- (g) allow the committee responsible, at its request, to be heard orally before Parliament decides, on the basis of Article 189b(6), to reject a common position once and for all;

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14. Instructs its President to forward this resolution and the report of its committee to the Council and Commission.

3. European Ombudsman

RESOLUTION A3-0298/92

Resolution on the European Ombudsman

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

The European Parliament,

- having regard to Article 138e of the EC Treaty, Article 20d of the ECSC Treaty and Article 107d of the EAEC Treaty introduced by the Treaty on European Union of 7 February 1992,
- having regard to Rule 121 of its Rules of Procedure,

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- having regard to the report of the Committee on Institutional Affairs and the opinions of the Committee on Petitions and the Committee on Civil Liberties and Internal Affairs (A3-0298/92),
- A. whereas the creation of the office of European Ombudsman is intended to reinforce the safeguarding of the rights of citizens of the Union; whereas the conditions governing the performance of the Ombudsman's duties should be laid down so that the regulations may be adopted as soon as the Treaty on European Union enters into force, thus allowing the Ombudsman to be appointed and the performance of his duties to commence as soon as possible,
- B. whereas Parliament should therefore forthwith adopt the regulations and conditions governing the performance of the Ombudsman's duties, in accordance with the procedure laid down in the above-mentioned articles of the Treaties,
- C. whereas the decision laying down these regulations should be submitted to the Commission for an opinion and to the Council for approval,
 - 1. Approves the attached draft decision;
 - 2. Calls on the Commission to deliver its opinion;
 - 3. Calls on the Council to approve the draft and forward it in good time to the European Parliament for final adoption to coincide with the entry into force of the Treaty on European Union;
 - 4. Instructs its President to forward this resolution and the draft decision annexed thereto to the Council, the Commission and the parliaments of the Member States.

ANNEX

DRAFT EUROPEAN PARLIAMENT DECISION ON THE REGULATIONS AND GENERAL CONDITIONS GOVERNING THE PERFORMANCE OF THE EUROPEAN OMBUDSMAN'S DUTIES

THE EUROPEAN PARLIAMENT,

having regard to the Treaties establishing the European Communities, in particular Article 138e of the EC Treaty, Article 20d of the ECSC Treaty and Article 107d of the EAEC Treaty,

having regard to the opinion of the Commission,

having regard to the Council's approval,

whereas citizens' confidence in the European institutions necessarily depends on the transparency of public administration; whereas considerable importance is attached to the complaints procedure, which helps to encourage the democratic operation of the institutions; whereas, therefore, the creation of the office of Ombudsman is of great importance for Union citizens;

whereas the regulations and general conditions governing the performance of the European Ombudsman's duties must be established and, in particular, the scope of his powers of inquiry;

whereas the scope of these powers covers Community institutions and bodies, which are obliged to provide the Ombudsman with full information and give him unrestricted access to their files; whereas the Ombudsman's powers of inquiry may not be restricted on grounds of confidentiality;

whereas the Ombudsman must be bound by the same code of discretion as Members, officials and other servants of the Community institutions and bodies;

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whereas the national authorities are obliged to provide the Ombudsman with any information which could help to clarify cases of maladministration on the part of Community institutions and bodies; whereas this assistance derives from the principle of loyal cooperation between Member States and the Community laid down in Article 5 of the EC Treaty;

whereas the lodging of a complaint with the Ombudsman should not affect the time limit set by the Treaty or any other act in respect of legal proceedings;

whereas the Ombudsman must be able, within the framework of his powers, to refer a complaint to the European Parliament for consideration under the petitions procedure, where this serves more fully the interests of the persons lodging the complaint;

whereas persons appointed to perform the Ombudsman's duties should be appropriately qualified to discharge those duties;

whereas it is necessary to determine the procedure for the appointment and request for dismissal of the Ombudsman by the European Parliament;

whereas the Ombudsman must hold the same rank and receive the same remuneration as a judge at the Court of Justice;

whereas the Ombudsman should be provided with the staff necessary for performing his duties and should be given the power, within the framework of the budget of the European Parliament, to propose his own preliminary draft budget;

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

The regulations and general conditions governing the performance of the Ombudsman's duties are established by this decision in accordance with Article 138e of the EC Treaty, Article 20d of the ECSC Treaty and Article 107d of the EAEC Treaty.

Article 2

Referral to the Ombudsman

1. Within the framework of the Treaty and the conditions laid down therein the Ombudsman shall help to uncover and put an end to maladministration in the activities of the Community institutions and bodies.
2. Any citizen of the Union or any natural or legal person residing or having his registered office in a Member State of the Union may, directly or through a Member of the European Parliament, refer a complaint to the Ombudsman in respect of an instance of maladministration in the activities of Community institutions or bodies, with the exception of the Court of Justice and of the Court of First Instance acting in their judicial role.
3. The complaint must allow the person lodging the complaint and the object of the complaint to be identified; the person lodging the complaint may request that his complaint remain confidential.
4. The Ombudsman shall without delay inform the person lodging the complaint of the action he intends to take.
5. The Ombudsman may, with the agreement of the person lodging the complaint, refer the latter to the European Parliament for consideration under the petitions procedure. Such referral is obligatory where the complaint concerns a matter in which the Ombudsman himself was involved. The Ombudsman shall immediately notify the person lodging the complaint of its referral to the European Parliament.
6. Complaints submitted to the Ombudsman shall not affect time limits in respect of judicial or administrative proceedings.
7. When the Ombudsman, because of legal proceedings concerning the facts which have been put forward, has to suspend or terminate consideration of a complaint, he may inform the European Parliament of the outcome of his investigations up to that point. The petitions procedure shall not be affected thereby.

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8. As regards cases relating to labour relations between the Community and its officials or other staff, the Ombudsman may refer the matter to the Community institution or body concerned only if the internal request and complaint procedures, in particular those referred to in Article 90(1) and (2) of the Staff Regulations, have been exhausted by the person concerned and after the deadline for the appropriate authority's reply has expired.

Article 3

Powers of the Ombudsman

1. The Ombudsman shall have the right, on his own initiative or following a complaint, to conduct all enquiries or investigations which he deems necessary to clarify any suspected maladministration in the activities of Community institutions and bodies. He shall inform the institution or body concerned of such action.

2. The Community institutions and bodies shall be obliged to supply the Ombudsman with the information requested and give him access to the files concerned. They may not refuse on the grounds of their duty of confidentiality.

Officials and other servants of Community institutions and bodies must testify at the request of the Ombudsman.

3. The authorities in the Member States shall be obliged, at the request of the Ombudsman, to provide all the documentation and information required to enable him to carry out his task.

4. Where the authorities in the Member States fail to provide the necessary assistance or obstruct his action, the Ombudsman shall inform Parliament, which shall take appropriate action.

5. As far as possible, the Ombudsman shall seek a solution with the institution concerned to eliminate the instance of maladministration and satisfy the request of the person lodging the complaint.

6. If, on completion of an inquiry, the Ombudsman finds that there has been maladministration, he shall inform the institution or body concerned, where appropriate suggesting ways of remedying the matter; the institution or body so informed shall send the Ombudsman a reasoned opinion within three months.

7. For each case of maladministration found, the Ombudsman shall send a report to the European Parliament and to the institution or body concerned, after expiry of the period referred to in paragraph 6. He may make recommendations in this report. The person lodging the complaint shall be informed by the Ombudsman of the outcome of the inquiries and any action taken and recommendations made.

8. At the end of each annual session the Ombudsman shall submit to Parliament a progress report concerning the outcome of his inquiries.

Article 4

Obligations

1. The Ombudsman, to whom Article 214 of the EC Treaty, Article 47(2) of the ECSC Treaty and Article 194 of the EAEC Treaty shall apply, shall be required not to disclose confidential information or documents which he obtains in the course of his inquiries. He shall also be required to treat in confidence any information which could harm the person lodging the complaint or any other person involved.

2. If, in the course of his inquiries, he learns of facts relating to criminal law, the Ombudsman shall notify the competent authorities at the end of his inquiries. He may also inform them of the facts calling into question the conduct of a member of their staff from a disciplinary point of view.

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Article 5*Cooperation with ombudsmen in the Member States*

In order to increase the effectiveness of his inquiries and improve the protection of the rights and interests of persons lodging complaints, the European Ombudsman may cooperate with ombudsmen in the Member States and ask them for the necessary assistance. He may also assist them in their inquiries. This cooperation shall be established on a voluntary basis and may be the subject of agreements between ombudsmen. However, under no circumstances may such agreements affect Community or national provisions governing ombudsmen.

Article 6*Appointment*

1. The Ombudsman shall be appointed by the European Parliament following an election pursuant to Parliament's Rules of Procedure. He shall be eligible for reappointment.
2. The Ombudsman shall be chosen from among persons who are Union citizens within the meaning of Article 8 of the EC Treaty, have full civil and political rights, offer every guarantee of independence, and meet the conditions required for the exercise of judicial office in their country or have the acknowledged competence and experience to undertake the duties of Ombudsman.

Article 7*Term of office*

1. The Ombudsman shall cease to exercise his duties, other than in the event of normal replacement or death, following resignation or dismissal.
2. At the end of his normal term of office or in the event of resignation the Ombudsman shall remain in office until his successor has taken up office.
3. In the event of early cessation of duties, a new Ombudsman shall be appointed within three months of the office falling vacant, solely for the remainder of the parliamentary term.

Article 8*Dismissal*

An Ombudsman who no longer fulfils the conditions required for the performance of his duties or is guilty of serious misconduct may be dismissed by the Court of Justice at the request the European Parliament.

Article 9*Oath of office*

When taking up his duties, the Ombudsman shall take an oath before the European Parliament that he will perform his duties with complete independence and impartiality in the interests of the Union and its citizens, and that both during and after his term of office he will respect the obligations arising therefrom and in particular his duty to behave with integrity and discretion as regards the acceptance, after he has ceased to hold office, of certain appointments or benefits.

Article 10*Independence and privileges*

1. During his term of office, the Ombudsman may not engage in any political or administrative duties, or any other occupation, whether gainful or not.

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The Ombudsman shall forfeit no right nor suffer any prejudice at Community or national level because of the performance of his duties.

2. The Ombudsman shall have the same rank in terms of rights, remuneration, allowances and pension as a judge at the Court of Justice of the European Communities.
3. Articles 12 to 15 and Article 18 of the Protocol on the Privileges and Immunities of the European Communities shall apply to the Ombudsman.

Article 11

Ombudsman's secretariat

1. In the performance of his duties, the Ombudsman shall be assisted by a secretariat.
2. On a proposal from the Ombudsman, the European Parliament shall determine the establishment plan of his secretariat.
3. The Ombudsman's secretariat shall be directed by a registrar appointed by the Ombudsman.
4. Persons responsible for carrying out inquiries shall be recruited as temporary staff. Community or national officials appointed to the Ombudsman's secretariat shall be seconded in the interests of the service and guaranteed automatic reinstatement in their service of origin.
5. In all matters concerning his staff, the Ombudsman shall have the same status as the institutions within the meaning of Article 1 of the Staff Regulations of officials of the European Communities.

Article 12

Budget

The Ombudsman's budget shall be attached to the budget of the European Parliament.

The Ombudsman shall, by 1 March of each year, submit his preliminary draft estimates to the European Parliament.

Article 13

Place of work

The seat of the Ombudsman shall be that of the European Parliament. Pending the establishment of that seat, his usual place of work shall be in one of the places of work of the European Parliament. Other details shall be laid down in the implementing provisions.

Article 14

Implementing provisions

On a proposal from the Ombudsman, the European Parliament shall adopt the implementing provisions of this decision.

Article 15

Transitional and final provisions

1. The European Parliament shall make provision in its budget for the staff and material facilities to enable the first appointed Ombudsman to perform the duties entrusted to him from the time of his appointment.
2. After the entry into force of the Treaty on European Union an Ombudsman may be appointed, in accordance with the procedure laid down in this decision, for the remainder of the parliamentary term.

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Article 16*Entry into force*

This decision shall be published in the Official Journal of the European Communities. It shall enter into force on the date of its publication.

Brussels,

For the European Parliament

(sgd) Egon KLEPSCH

4. Parliamentary committees of inquiry**RESOLUTION A3-0302/92****Resolution on parliamentary committees of inquiry**

The European Parliament,

- having regard to Articles 138c of the EC Treaty, Article 20b of the ECSC Treaty and Article 107b of the EAEC Treaty introduced by the Treaty on European Union of 7 February 1992,
 - having regard to Rule 121 of its Rules of Procedure,
 - having regard to the report by the Committee on Institutional Affairs and the opinion of the Committee on Budgetary Control (A3-0302/92),
- A. whereas the inclusion in the Treaties of a provision empowering the European Parliament to set up temporary committees of inquiry in order to carry out its duties implies recognition of Parliament's role in the Community's democratic process,
- B. whereas such power of parliamentary control, which will fill an important gap in this sphere, can not be exercised in practice unless a consistent and effective system is set up to deal with both the specific functioning of the committees of inquiry and the real impact of their findings,
- C. whereas it is therefore necessary to confer on the temporary committees of inquiry, and hence on the European Parliament, all the powers needed to carry out this task,
- D. whereas the procedures for exercising the right of inquiry must be the subject of a common accord between Parliament, the Council and the Commission,
1. Approves the draft common accord annexed hereto;
 2. Undertakes to adapt its Rules of Procedure to enable the committees of inquiry and the European Parliament to carry out their duties in this sphere;
 3. Instructs its President to convene an interinstitutional conference in order to prepare for the adoption by common accord of the Act on the procedures for exercising the right of inquiry;
 4. Instructs its Committee on Institutional Affairs to report on the outcome of this interinstitutional conference so that a common accord can be concluded once the Treaty on European Union has entered into force;
 5. Instructs its President to forward this resolution and the draft Act annexed thereto to the Council, the Commission and the parliaments of the Member States.