

# Procedure file

Basic information		
INL - Legislative initiative procedure	<a href="#">2006/2223(INL)</a>	Procedure completed
Statute of the European Ombudsman		
Subject 1.20.04 European Ombudsman		

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>AFCO</b> Constitutional Affairs		01/03/2007
		ALDE <a href="#">JÄÄTTEENMÄKI Anneli</a>	
	Committee for opinion	Rapporteur for opinion	Appointed
	<b>PETI</b> Petitions		02/05/2007
		PSE <a href="#">MATSOUKA Maria</a>	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2877</a>	12/06/2008
European Commission	Commission DG	Commissioner	
	<a href="#">Secretariat-General</a>	BARROSO José Manuel	

Key events			
13/12/2007	Committee referral announced in Parliament		
10/03/2008	Vote in committee		Summary
14/03/2008	Committee report tabled for plenary	<a href="#">A6-0076/2008</a>	
21/04/2008	Debate in Parliament		
22/04/2008	Results of vote in Parliament		
22/04/2008	Decision by Parliament	<a href="#">T6-0129/2008</a>	Summary
18/06/2008	Decision by Parliament	<a href="#">T6-0301/2008</a>	Summary
18/06/2008	End of procedure in Parliament		

Technical information	
Procedure reference	2006/2223(INL)
Procedure type	INL - Legislative initiative procedure

Procedure subtype	Legislative initiative
Legal basis	Rules of Procedure EP 46
Stage reached in procedure	Procedure completed
Committee dossier	AFCO/6/40375

## Documentation gateway

Committee draft report		<a href="#">PE396.670</a>	19/12/2007	EP	
Committee opinion	PETI	<a href="#">PE392.367</a>	08/01/2008	EP	
Amendments tabled in committee		<a href="#">PE402.571</a>	14/02/2008	EP	
Committee report tabled for plenary, single reading		<a href="#">A6-0076/2008</a>	14/03/2008	EP	
Text adopted by Parliament, single reading		<a href="#">T6-0129/2008</a>	22/04/2008	EP	Summary
Document attached to the procedure		<a href="#">SEC(2008)1878</a>	07/05/2008	EC	Summary
Commission response to text adopted in plenary		<a href="#">SP(2008)3169</a>	28/05/2008	EC	
Text adopted by Parliament, single reading		<a href="#">T6-0301/2008</a>	18/06/2008	EP	Summary
Commission response to text adopted in plenary		<a href="#">SP(2008)4439</a>	16/07/2008	EC	

## Statute of the European Ombudsman

The Committee on Constitutional Affairs adopted the own-initiative report by Anneli JÄÄTTEENMÄKI (ALDE, FI) approving a proposal for a Decision of the European Parliament amending Decision 94/262/ECSC, EC, Euratom on the regulations and general conditions governing the performance of the Ombudsman's duties. The Ombudsman, Diamandouros, requested the statutory amendments in a letter sent in July 2006 to the President of the European Parliament, Hans-Gert Pöttering.

MEPs believe that it is desirable to adapt the Statute of the Ombudsman in order to eliminate any possible uncertainty concerning the capacity of the Ombudsman to conduct thorough and impartial enquiries in alleged cases of maladministration. Consequently, they propose the following statutory amendments:

**Access to classified documents:** the parliamentary committee approved an amendment to a provision obliging all Community institutions and bodies to supply the Ombudsman with any information he has requested of them. This amendment removes the current discretion, which allows information not to be disclosed on duly substantiated grounds of secrecy, which, according to MEPs, could hinder the trust of citizens in the capacity of the Ombudsman to conduct thorough enquiries.

Access to information or classified documents, particularly to sensitive documents in the sense of Regulation (EC) No 1049/2001, will be granted provided the Ombudsman rigorously respects rules, equivalent to those in force in the institution or body in question.

The institutions communicating such information or classified documents shall inform the Ombudsman of this classification. The Ombudsman may adopt, with the institutions, practical means of access to classified information and to other information covered by the duty of professional secrecy.

The report also emphasises that the Ombudsman and his personnel will be required not to divulge any sensitive information or documents relating to the scope of the Community legislation on the protection of personal data.

**Testimonials of officials:** MEPs removed a provision according to which Community officials had to testify ?in accordance with instructions from their administrations?. In fact, the parliamentary committee considered that this wording might be interpreted by public opinion as meaning that officials are not always required to tell the truth. The approved text stipulates that officials and other representatives of Community institutions and bodies must testify upon request of the Ombudsman; they continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy.

MEPs also adopted an amendment, which seeks to allow the Ombudsman to also cooperate with other national or international institutions for the promotion and protection of fundamental rights.

## Statute of the European Ombudsman

The European Parliament adopted by 620 votes to 18, with 18 abstentions, a proposal for a decision of the European Parliament amending its Decision 94/262/ECSC, EC, Euratom on the regulations and general conditions governing the performance of the Ombudsman's duties. The own-initiative report had been tabled for discussion in plenary by Anneli JÄÄTTEENMÄKI (ALDE, FI) on behalf of the Committee on

Constitutional Affairs. Parliament voted only on the proposal for a decision and adjourned the final vote on the motion for a resolution to a subsequent part-session pending the conclusion of the procedure under Article 195(4) of the EC Treaty (this involves seeking an opinion from the Commission and the approval of the Council acting by a qualified majority).

The Ombudsman, Mr Diamandouros, had requested the statutory amendments in a letter sent in July 2006 to the President of the European Parliament. MEPs believe that it is desirable to adapt the Statute of the Ombudsman in order to eliminate any possible uncertainty concerning the capacity of the Ombudsman to conduct thorough and impartial enquiries in alleged cases of maladministration. Consequently, they propose the following statutory amendments:

**Access to classified documents:** Parliament approved an amendment to a provision obliging all Community institutions and bodies to supply the Ombudsman with any information he has requested of them. This amendment removes the current discretion, which allows information not to be disclosed on duly substantiated grounds of secrecy.

**Access to classified information or documents,** in particular to sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, shall be subject to observance by the Ombudsman of rules strictly equivalent to those in force in the institutions or bodies in question.

The institutions communicating such information or classified documents shall inform the Ombudsman of this classification. The Ombudsman may agree with the institutions or bodies the operational conditions for access to classified information and other information covered by the obligation of professional secrecy.

The Ombudsman and his staff will be required not to divulge any classified information or any document supplied to the Ombudsman as sensitive documents within the meaning of Article 9 of Regulation (EC) No 1049/2001, or as documents falling within the scope of the Community legislation regarding the protection of personal data.

**Testimonials of officials:** Parliament removed a provision according to which Community officials had to testify in accordance with instructions from their administrations. The text now stipulates that officials and other representatives of Community institutions and bodies must testify upon request of the Ombudsman. They continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy.

The Ombudsman and his staff shall deal with applications from third parties for access to documents obtained by the Ombudsman in the course of inquiries in accordance with the conditions and limits provided for in Regulation (EC) No 1049/2001, in particular Article 4. Lastly, Parliament adopted an amendment, which seeks to allow the Ombudsman to also cooperate with other national or international institutions for the promotion and protection of fundamental rights.

## Statute of the European Ombudsman

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COMMISSION OPINION on the Draft Decision of the European Parliament adopted on 22 April 2008 amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties.

At its plenary session of 22 April 2008, the European Parliament adopted seven amendments to the Statute of the Ombudsman, on the basis of the Ombudsman's requests.

The Commission can agree to the amendments relating to the European Coal and Steel Community, which are of purely formal nature. The Commission can also agree to the amendment relating to hearing of witnesses, which confirms the principle whereby officials do not speak on a personal basis but as officials and thus continue to be bound by the relevant provisions of the Staff Regulations, in particular the duty of professional secrecy.

The Commission broadly shares the principles adopted by the European Parliament subject to the following comments:

**Access to files:** the Commission shares Parliament's concern for enhancing the citizen's confidence in the capacity of the Ombudsman to conduct thorough and impartial inquiries in alleged cases of maladministration. With this aim in view, and considering the rules on public access to documents of the three Institutions and of security governing the treatment of classified information applicable to the Commission and the Council, a better definition is necessary of the conditions applicable for having access to classified information and to other information covered by the obligation of professional secrecy. The Commission also shares Parliament's view that the Ombudsman may agree with the institutions the operational conditions for access to information or documents.

**Information concerning possible criminal activity:** the Commission shares Parliament's views according to which the Statute should include the possibility for the Ombudsman to notify the European Anti-Fraud Office (OLAF) of any information falling within its remit. However, the Commission would be in favour of an alternative and more precise wording, specifying that the Ombudsman should immediately notify the competent national authorities via the Permanent Representations of the Member States or the Community service in charge of combating fraud, in cases falling within its mandate.

**Co-operation in the field of human rights:** the Commission can not agree with the amendment concerning the cooperation in the field of fundamental rights in its current form, but it would be open to a wording, which would not create the impression of widening the competence of the Ombudsman as defined in the Treaties or impinging on the Commission's institutional prerogatives.

## Statute of the European Ombudsman

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The European Parliament adopted by 576 votes to 8, with 6 abstentions, a resolution on the adoption of a decision of the European Parliament amending its Decision 94/262/ECSC, EC, Euratom of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties.

The own-initiative report had been tabled for consideration in plenary by Anneli JÄÄTTEENMÄKI (ADLE, FI) on behalf of the Committee on Constitutional Affairs. The report was debated during the session of 21 April 2008 but the vote had been postponed in order to await informal negotiations with Council.

The Parliament proposes the following statutory amendments:

Access to classified documents: Parliament approved an amendment that removes the current discretion, which allows Community institutions and bodies not to disclose information on duly substantiated grounds of secrecy.

Access to classified information or documents, in particular to sensitive documents within the meaning of Regulation (EC) No 1049/2001, shall be subject to observance by the Ombudsman of rules strictly equivalent to those in force in the institutions or bodies in question.

The institutions communicating such information or classified documents shall inform the Ombudsman of this classification. The Ombudsman may agree with the institutions or bodies the operational conditions for access to classified information and other information covered by the obligation of professional secrecy.

In addition, the Ombudsman and his staff will be required not to divulge any classified information or any document falling within the scope of the Community legislation regarding the protection of personal data.

Testimonials of officials: MEPs removed a provision according to which Community officials had to testify ?in accordance with instructions from their administrations?. The text now stipulates that officials and other representatives of Community institutions and bodies must testify upon request of the Ombudsman; they continue to be bound by the relevant rules of the Staff Regulations, notably their duty of professional secrecy.

MEPs adopted an amendment, which seeks to allow the Ombudsman to also cooperate with other national or international institutions for the promotion and protection of fundamental rights.