

The next Ombudsman should be a judge

Written by Julia Laffranque on 19 November 2019 in Opinion
Opinion

The Ombudsman plays an essential role in sustaining trust between citizens and EU institutions; a judge has the ideal set of skills for this role, writes Julia Laffranque.



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People have always been, and will always be, at the centre of all of my actions. It is important that citizens trust the European Ombudsman and that the EU institutions respect the office.

I want to reach out and listen to people, to reassure them that they are being heard by delivering work with real impact.

These turbulent times demand a solid figure of authority - a lawyer, a judge - to do this job. The vast majority of national Ombudsmen are lawyers; some are experienced judges.

The current Swedish Ombudsman previously served as a magistrate, while the former Danish

Ombudsman was recently appointed to the Supreme Court.

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In my view there are three main reasons why Parliaments may prefer to elect judges as Ombudsman: their expertise in the law and jurisprudence, their independence and impartiality and their absolute respect for fair procedure.

I am a lawyer, a visiting professor of European law at the University of Tartu in Estonia, and I have been a judge for the past 15 years, including seven years as part of the Estonian Supreme Court, which also deals with constitutional issues.

For the past nine years, I have been a judge of the European Court of Human Rights in Strasbourg.

Recent decisions of the European Ombudsman show that the EU institutions, such as the Commission, the Council and the ECB, have sometimes chosen, in a number of widely-reported cases, not to follow the Ombudsman's recommendations.

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They have argued that the Ombudsman had incorrectly interpreted the law or failed to respect due process before going public with the findings.

Some academics have also publicly criticised the fact that an investigation into the appointment of the Commission's Secretary-General had stemmed from a complaint from members of political groups in the European Parliament.

Accepting complaints from political parties, rather than from EU citizens as envisaged in the Treaty on the Functioning of the European Union, is perceived by academics - as well as by national Ombudsmen - as a threat to the independence of the Ombudsman institution.

Others have raised doubts over the Ombudsman's independence when investigating the European Parliament (which elects the Ombudsman).

This follows an unsuccessful complaint against Parliament's alleged failure to deal with a request to check political parties' compliance with the basic EU principles.

These incidents risk undermining the credibility and reputation of the European Ombudsman and of compromising its ability to obtain satisfactory outcomes to complaints.

Ombudsmen must be able to exercise their mandate in a way that robustly resists criticism from both

the substantive and procedural perspectives.

I am convinced that this will be better achieved if the European Ombudsman is an experienced judge. First, as with the courts, the law is at the foundation of the Ombudsman's work.

A judge has the legal expertise necessary to build arguments on that foundation that can persuade the institutions to comply with both the law and with the principles of good administration.

A judge is also sensitive to goodwill and is ready to praise an administration able to acknowledge mistakes and take positive action to correct them.

Second, judges and Ombudsmen belong to the same family of administrators of justice, where fair procedure is key.

If an Ombudsman fails to apply a procedure that can be unanimously acknowledged as fair, the parties will simply not accept the Ombudsman's recommendations.

A judge thus offers stronger guarantees that no decision of maladministration can be taken without the institution concerned first having the opportunity to present its own views.

Last, an experienced judge is trained to identify and address external pressures, thus competently handling all attempts at manipulation.

When speaking truth to power, a judge serving as Ombudsman is better able to ensure that the message is not compromised by any political agenda.

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It is in this spirit that I have decided to run for the office of European Ombudsman. I commit to uphold unreservedly the principles of respect for the rule of law, fair process, and independence and impartiality, as I have throughout my career.

If elected, I will seek ways of achieving real impact, for citizens and for the EU administration, primarily by investigating complaints and also by using the Ombudsman's powers of own-initiative wisely.

I also intend to follow closely the ongoing project on codifying the EU's administrative procedure, crucial to 'de-bureaucratising' the EU administration and enhancing legal certainty.

I wish to play my part in this important project, within my competences, as partner of the European Parliament. Overall, I will strengthen the dialogue with the Parliament.

I will further advocate for the revision of the EU rules on public access to documents and for the Ombudsman's active involvement in that process.

I will also reach out to the members of the European Network of Ombudsmen and seek to make this network a more efficient forum for exchanging best practices.

The discussion on the potential roles that Ombudsmen may have when dealing with reports from whistle-blowers is particularly timely, following the recent adoption of the new Directive protecting persons reporting breaches of EU law.

To me, the Ombudsman is not only the individual but also the team that supports their work. Ombudsmen would not be able to perform their tasks without their staff.

I will do my utmost to ensure that European Ombudsman staff members are proud of the institution and are happy in the workplace.

I intend to enhance their skills in law and other fields and to modernise the processing of complaints.

At a time when the EU is celebrating the tenth anniversary of the Charter of Fundamental Rights, it is highly appropriate to reaffirm the EU's commitment to the fundamental values enshrined in the Charter.

If the European Parliament were to do me the honour of electing me as European Ombudsman, I would ensure that human rights take centre stage in the work of the Office, to the benefit of EU citizens.

About the author

Julia Laffranque is a candidate for European Ombudsman

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