

## THE ROLE OF THE EUROPEAN OMBUDSMAN IN GOOD ADMINISTRATION

### İYİ YÖNETİMİ SAĞLAMADA AB OMBUDSMANININ ROLÜ

Demokaan DEMİREL\*

#### Araştırma Makalesi/Research Article

\* Assoc. Prof., Department of  
Public Administration, FEAS,  
Kocaeli University  
[demokaand@gmail.com](mailto:demokaand@gmail.com)

\* Doç. Dr., Öğretim Üyesi, İ.İ.B.F.,  
Siyaset Bilimi ve Kamu  
Yönetimi, Kocaeli Üniversitesi

ORCID ID:  
0000-0001-5454-9507

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#### Abstract

The Ombudsman institution has been adopted in Western Europe since the 19th century. With the public administration reforms, the "right to good administration", which should be recognized as a human right, has come to the fore. Good administration emphasizes an administrative approach that is accountable and responsive to citizens. The right to good administration is a democratic value that the EU cares about, and the European Ombudsman has important duties in the adoption of this value by the Union institutions. The European Ombudsman ensures healthy supervision of the Union institutions and prevents cases of maladministration. The study uses the qualitative research method based on document analysis. The study aims to evaluate the functional role of the EU Ombudsman in the contextual complementation of good administration. In the study, the vision, mission, strategies of the EU Ombudsman and the relations between them and the union institutions were analysed. In the first part, the approach of the EU to the concept of good administration is explained. In the second part, the structure and activities of the EU Ombudsman, the application and complaint procedures of the citizens of the union are discussed. The last part deals with the intra-union activities of the EU Ombudsman in implementing good administration.

**Keywords:** Good administration, Accountability, Transparency, EU Ombudsman.

**Jel Classification:** Jel 1:H80, Jel 2: H83.

#### Özet

Ombudsmanlık kurumu 19. yüzyıldan itibaren Batı Avrupa'da benimsenmeye başlanmıştır. Kamu yönetimi reformlarıyla birlikte vatandaşlara bir insan hakkı olarak tanınması gereken "iyi yönetim hakkı" gündeme gelmiştir. İyi yönetim vatandaşlara karşı hesap verebilir ve cevap verebilir nitelikteki bir idari yaklaşıma vurgu yapmaktadır. İyi yönetim hakkı AB'nin önemsendiği demokratik bir değerdir ve bu değer bir birlik kurumlarınınca benimsenmesinde Avrupa Ombudsmanına önemli görevler düşmektedir. Avrupa Ombudsmanı birlik kurumlarının sağlıklı bir biçimde denetimini sağlayarak kötü yönetim vakalarının önüne geçmektedir. Çalışma doküman analizine dayalı nitel araştırma yöntemini kullanmaktadır. Çalışmanın amacı iyi yönetimin içeriksel olarak birlikte uygulanmasında AB Ombudsmanının fonksiyonel rolünü değerlendirmektir. Çalışmada AB Ombudsmanının vizyonu, misyonu, stratejileri ve birlik kurumlarıyla aralarındaki ilişkiler analiz edilmiştir. İlk kısımda AB'nin iyi yönetim kavramına yaklaşımı açıklanmıştır. İkinci kısımda AB Ombudsmanının yapısı ve faaliyetleri, birlik vatandaşlarının başvuru ve şikâyet prosedürleri ele alınmaktadır. Son kısım iyi yönetimi hayata geçirmede AB Ombudsmanının birlik içi faaliyetlerine değinmektedir.

**Anahtar Kelimeler:** İyi Yönetim, Hesap Verebilirlik, Şeffaflık, AB Ombudsmanı.

**Jel Kodları:** Jel 1:H80, Jel 2: H83.

## **Introduction**

The ombudsman office is an audit mechanism established to institutionalize the rule of law and ensure the protection of individual rights as much as possible, strengthening ethical supervision in public administration. One of the most important functions of the ombudsman is to ensure the administrative accountability of public institutions. With the Ombudsman's office, acts that are considered crimes are recorded, whistle-blowers are protected from an official point of view, and cases of abuse of office are revealed (Abdioglu, 2007: 96). The Ombudsman also helps to improve administrative performance by suggesting some corrective actions to institutions as an external control tool in complaints about maladministration. There are at least three views on the meaning of maladministration. First, maladministration can be defined as illegality. Second, maladministration and illegality can be regarded as mutually exclusive, making maladministration an undesirable, yet still legal, action. Maladministration also means that every complaint about political decisions is evaluated outside the jurisdiction of the institutions (Pino, 2011: 423-443).

The increase in administrative performance ensures good administration by meeting individual expectations, ensuring transparency, encouraging political power, and the administration's commitment to the principles of law, justice, proportionality, and equality (Pino, 2011: 433). The European Ombudsman (EU), established for this purpose, acts independently as a cooperative mediator between EU institutions and bodies. The main aim of the European ombudsman is to raise standards in the services provided to European citizens through a non-judicial appeal system to secure legal action and access to justice. Regular meetings with the union's institutions and bodies to improve the level of good administration play an important role in the success of the European ombudsman in line with its objectives (Özer, 2017: 77; Pino, 2011: 433).

The problem of this study is to evaluate the role played by the EU ombudsman to ensure good administration at the union level. Document analysis, one of the qualitative research methods, was used in the study. Content analysis was carried out by examining the legal regulations and strategic reports related to the study problem. The importance of the study is based on the evaluation of what kind of relations the EU ombudsman establishes with the institutions in the union according to the principles of good administration. In the study, firstly, the approach of the EU to the concept of good administration was examined. After that, the structure and activities of the EU ombudsman are mentioned. The study concludes with the examination of the relations established by the EU ombudsman with the institutions within the scope of good administration.

## **1. The EU's Approach to the Concept of Good Administration**

The emergence of good administration as an important control mechanism in public administration is quite recent. Conceptually, good administration has a wide dimension that can include many fields such as political science, law, public administration, and can be evaluated from different perspectives by the public, private and non-governmental organizations (Karakul, 2015: 62). The criterion of good administration derives from English law. Ireland has found undesirable administrative practices based on incorrect or incomplete information, as a result of negligence or carelessness, on unrelated grounds, contrary to good governance. It is seen that the norms of good administration in the legal order of the Continental Europe are scattered in the positive administrative law. Good governance principles also apply where the organization does not act in violation of the law. It covers any negative administrative behaviour even if it is not legally defined or given discretion. (For example, rude behaviour towards parties, unnecessary delays in procedural steps, lack of cooperation). However, if the problem is in the legal regulation that explicitly instructs the administrative body to exhibit certain behaviour, priority is given to the law. (Stadlmeyer, 2008: 34).

Since written constitutions limit political power, the transfer of the basic principles of good administration to legal texts can be taken as far as constitutionalism movements. Compliance with the law, one of the good administration principles, provides administrative and judicial control. The principle of proportionality requires the use of tools that are convenient, necessary, and directly related to the purpose to achieve the goals. The principle of fairness requires good administration to provide equal service to all segments of society to prevent discrimination. The principle of complying with the procedural guarantees refers to the execution of administrative and judicial actions according to the legal rules (Karakul, 2015: 84-88). The 1947 Italian constitution stipulated that Italian agencies should be organized to ensure administrative impartiality and good administration. The principle has given the public administration the task of collecting the necessary information in every situation and making sound decisions by balancing the relevant factors. The 1978 Spanish Constitution prohibits arbitrariness by stating that the public administration must act in accordance with the principles of effective action, efficiency, economy and coordination, in Articles 31 and 103, impartially and objectively. In 1971, the Justice Committee-All Souls, a non-governmental organization in UK, published a report containing the draft good management principles. The report recommended that Parliament enact a statement on good administration principles to guide administrative activities in the UK. In 1988, the same institution published another report, emphasizing that good administration is the only tool to prevent bad management rather than cure it. (Ponce, 2005: 556-557).

The World Bank draws attention to three elements of good administration. Accordingly, regulations and rules related to the legislative, executive, and judiciary are important. In addition, public opinion polls should be executed to analyse the views of citizens on public services. Another factor is the use of alternative service delivery mechanisms to raise standards in public services (Aktan, 2015: 58). Boz et al. (2019: 500) states that the concept of good administration emerged towards the end of the 1980s, and those capitalist countries used the concept to promote welfare policies against stagflation in the late 1970s. Aktan and Kitapçı (2016: 54) state that good administration is based on social values consisting of elements such as honesty, accountability, and transparency rather than being a legal term. These values regulate the activities of both the state and market actors. As a result, it plays an important role in ensuring trust in the relations between the actors in the emerging and transitioning economies.

Today, as a result of the increasing differentiation of public services and the increasing relations of citizens with both administrative and political institutions (Şengül, 2007: 407), it has become a necessity to protect citizens against the administration and the administration to show the necessary sensitivity securing the rights of citizens (Bulut and Aslan, 2020: 31). Managing relations between citizens and public power depends on establishing rules that public administrations will respect, on the one hand, and establishing rights for all, on the other. Good administration enables citizens to expect a certain standard of behaviour from public administration (Lanza, 2008: 483). In the 2012 report, which includes the recommendations of the organisation for Economic Cooperation and Development (OECD) and the EU for the SIGMA (Support for Strengthening Governance and Administration) Program, the first elements of good administration are expressed as reliability and predictability. Other elements are openness and transparency, the use of clear and simple language in administrative relations, participation in the decision-making process, accountability, justification of administrative decisions, and official recording of administrative transactions (Karakul, 2018: 28-29). The connection between human rights and good administration has also been established in various resolutions of the Council of Europe. The Committee of Ministers of the Council of Europe pointed out the importance of individuals getting information about administrative processes and participating in administrative activities (Karakul, 2018: 34-35). For this purpose, the Committee of Ministers of the Council of Europe issued a resolution in 1977 for the protection of the individual against administrative proceedings. With this decision, principles such as being heard, access to documents, representation and consultancy in administrative procedure, showing reasons and legal remedies in administrative proceedings are listed (KDK, 2019: 17). Good administration was raised in the 1980s with disputes in the field of competition, and in the Tradax decision of 1984, the European Court of

Justice recognized the effectiveness of the principle of good administration in administrative procedures in Europe and demanded that the European Commission focus its attention on good administrative practices (Lanza, 2008:488). In the White Paper issued by the European Commission in 2001, it was emphasized that coordination and openness with civil society and the distribution of duties and responsibilities between organs should be determined with clear lines in the decision-making process (Şimşek, 2007: 98). The European Union Charter of Fundamental Rights was declared in 2000, and came into force in December 2009 along with the Treaty of Lisbon. The Charter includes (EUCFR, art. 41):

1. Every person has the right to have his or her affairs handled impartially, fairly and within a reasonable time by the institutions, bodies, offices and agencies of the Union.

2. This right includes:

(a) the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;

(b) the right of every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;

(c) the obligation of the administration to give reasons for its decisions.

3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

The European Code of Good Administrative Behaviour, which was prepared by the EU Ombudsman in 2001 and accepted in the European Parliament (EP), is one of the most important documents related to good administration. In the law, there are administrative guarantees that will enable citizens to receive the public service in the best possible way throughout the union and that transform the democratic rule of law principle into the essence of the union (Erdoğan, 2020: 225-226). It can be said that the Charter of Fundamental Rights has an innovative quality because it mentions subjective rights, but the Charter weakens the concept, institutional and personal content of the concept, since the right to good administration excludes regulatory administrative actions (Karakul, 2018: 45).

## **2. Structure and Activities of the European Ombudsman**

The emergence of the idea of Ombudsman in the European Union can be seen as an initiative of the Spanish and Danish governments. While Spain's plan was based on the idea of establishing direct European citizenship, Denmark's proposal was more concerned with the bureaucratic control of community institutions. Ironically, the resulting institution was based on the Danish national ombudsman. The main reason underlying Denmark's proposal stemmed from its deep-rooted national ombudsman experience as the only Scandinavian member of the union and its anxious attitude towards Europe (Efe, 2011: 5-6; Song and Sala, 2008: 481-482). The institution was established with the aim of transparency, sustainability of the relationship between citizens and union institutions, and cooperation of union institutions based on democratic legitimacy with the article 138/E of the Maastricht Treaty. In 1995, the EP chose the former minister and ombudsman of Finland, Jacob Söderman, as the first ombudsman of the union (Temizel, 1997: 36; Mutta, 2005: 55-56). In the emergence of the institution, there are factors such as the cost of the applications made to the Court of Justice of the European Union (CJEU), the fact that the council does not consider factors such as fairness, the EP takes action according to the conditions of each country, the need for units to control the maladministration practices in the union bureaucracy with the enlargement process of the union (Köseoğlu, 2010: 38). In this section, the organizational structure and function of the EU Ombudsman, applications to the ombudsman, complaints, and types of decisions will be examined.

### ***2.1. Organizational Structure and Function of the EU Ombudsman***

Half of the members of the EP must attend the session to vote for the election of the EU Ombudsman. If candidates cannot be elected in the first two rounds, the two candidates who received the most votes in the second round participate in the third round, and the candidate with the most votes in the third round is elected. In the case of equality, the oldest member is elected as the ombudsman (Köseoğlu, 2010: 40). Ombudsman elections are held after the EP elections. Since the Ombudsman of the European Union operates within the framework of the European Parliament, its main working center is located in Strasbourg. There is also a branch office in Brussels, the other center where the European Parliament operates.

The Ombudsman has the difficult task of contributing to the development of EU governance and shortening the distance between citizens and institutions. The Ombudsman examines and decides on complaints against union institutions and organizations. It is ensured that the office serves the general interest while properly investigating minor irregularities arising from individual complaints. (Vogiatzis, 2018: 55). The Ombudsman's control area includes contingent actions and individual actions that affect citizens subjectively, and the legitimacy of

administrative behaviour is questioned over the investigated issues. It is checked whether there is a situation contrary to the laws, constitution, international agreements. The Ombudsman investigates and examines cases of maladministration upon any application or due to the activities of union institutions or bodies (Çalışkan, 2020: 1275-1285). The concept of maladministration, characterized as a violation of the right to good administration, has a central importance in ombudsman audits (European Ombudsman (EO), 10.10.2021). The critical and draft statements made by the EU ombudsman examine the maladministration practices in public administration. This situation foresees a preventive control mechanism for the relevant administration and strengthens the administrative capacity by setting an example for other units (Köseoğlu, 2010: 53-54). In its 1995 annual report, the ombudsman listed the elements constituting maladministration as administrative irregularities and omissions, abuse of power, negligence, unlawful procedures, injustice, inadequacy, avoidable delay, incomplete information submission, and refusal to provide information. Here, bad management is perceived in two ways. The first aspect concerns legality and includes the jurisprudence of the Union courts and the legally binding provisions of primary and secondary union law. The second aspect, which is more flexible and constantly evolving, is the monitoring of compliance with EU rules and principles (Dragos and Neamtu, 2017: 651). In the 2007 Annual Report, it was stated among the requirements of good administration that the institutions and bodies of the union, in addition to respecting legal obligations, should be service-oriented and be treated appropriately in order to ensure that the people fully use their rights (Lanza, 2008: 487). Situations where a union institution or body acts under the treaty and binding union act, and the rules of the law envisaged by situations where a union institution or body acts by the treaty and binding union acts, and the rules of the law envisaged by CJEU and EU courts of the first instance are considered as maladministration (Söderman, 2005: 87). The EU Ombudsman is guided by the primacy of Union law and the fact that fundamental rights are an integral part of EU law, and this reality has important implications for ombudsmen in member states at the national, regional, and local level. As a sub-unit in the organizational structure of the Ombudsman, there is the Cabinet of the EU Ombudsman. The Cabinet advises the ombudsman to achieve the goals according to the vision. There is also a general secretariat in the organization. The secretary-general advises the ombudsman in policy making through the communications unit, media and foreign affairs unit, and registry office. In particular, the registry office evaluates whether the complaints made fall within the scope of the ombudsman's duty. There are four complaints and investigation units in the directorates working under the Ombudsman. Another organization is the personnel, management, and budget unit. Apart from this unit, there is also Data Protection Officer Staffs (EO, 12.10.2021).

The dismissal of the Ombudsman is at the discretion of the EP. Parliamentarians may request the ombudsman's dismissal because he/she has lost the terms of his/her office or committed a crime. This request is forwarded to the relevant committee, and the committee's decision to dismiss it by majority vote is notified to the parliament. If the ombudsman resigns while the dismissal process is in progress, the process ends automatically (European Parliament, Rules of Procedure, art. 221).

## ***2.2. Decisions Given by the EU Ombudsman Application and Complaint Procedure***

Citizens of member states or persons residing in these countries can apply to the EU Ombudsman. There is no formal rule for applying to the ombudsman. A complaint petition can be prepared on the grounds. Complaints are made in one of the 21 official languages of the EU (Arıkan, 2007). A complaint can be made in writing or using an electronic form. In this form, the name-surname, nationality, permanent address, signature for natural persons, the name of the legal entity for legal persons, the country where the central office of the legal entity is located, the address of the central office must be located for a legal entity (Marias, 1994: 77).

The Ombudsman may refer a complaint as a petition written to the EP with the consent of the complainant. With the consent of the complainant, the complaint can also be converted into an application to another union institution. The Ombudsman accepts only applications following the rules set out in the constituent treaties and the statutes (European Ombudsman, Implementing Provisions, art. 2-4). With the removal of the column structure, the obstacles preventing the ombudsman from reviewing the common foreign and security policy and the activities in the common security and defence policy have been removed (Oğuşgil, 2014: 19). Complainants can apply to the ombudsman after 2 years have passed from the learning of administrative actions or actions regarding misadministration. After the Ombudsman decides whether the application will be accepted or not, it searches for acceptable applications. The applicant is informed about the rejected applications. Although complaints are generally open to the public, they can also be kept confidential at the request of the complainant (Çalışkan, 2020: 1288-1291). Although the EU Ombudsman has the authority to act *ex officio*, the number of investigations it initiates spontaneously during the year is limited (Efe, 2011: 10). Three-quarters of complaints are dismissed as they relate to conflicts with national administrations. 90% of cases are from citizens, the remaining 10% is split between businesses, citizens' associations, and parliamentarians. Although the complainants are not motivated by political reasons, the ombudsman often emphasizes the "general interest" dimension in the cases he receives. The vast majority of cases also involve various problems related to the payment of professional examinations, employment contracts, orders or subsidies for private business services (Magnette, 2003: 683).

To apply to the EU Ombudsman, the complainant must contact the relevant institution or organization in advance. The Ombudsman does not deal with the complaints that are reflected or concluded in the court (Köksal, 2007: 41). If the Ombudsman qualifies an application as inadmissible or completes its investigation due to a legal process that has ended or is currently underway, it will also disregard the results of the investigation it has already started. The relevant institution or body is informed about the subject under investigation. Member state authorities, with their permanent representatives, provide any assistance to clarify the matter. Ombudsman may cooperate with national ombudsman or institutions at the same level to increase the impact of his/her studies (Şafaklı, 2009).

Table 1. Number of complaints made to the EU Ombudsman

Complaints	2015	2016	2017	2018	2019	2020
Complaints in jurisdiction	707	711	751	880	871	728
Complaints outside the jurisdiction	1239	1169	1430	1300	1330	1420

Source: European Ombudsman, Annual Report 2019-2020, [www.ombudsman.europa.eu](http://www.ombudsman.europa.eu)

As can be seen in Table 1, a linear increase is observed in complaints filed to the ombudsman from year to year. This shows that the ombudsman is an institution that attracts attention in the EU.

Table 2. Investigations Closed in 2019

Subjects of Investigation	Percentage Distribution (%)
Transparency and accountability (Access to Information and Documents)	%26,9
Service Culture (Citizen friendly, languages and timeliness)	%22
Proper use of discretion (Including Violation Procedures)	%19,8
Respect for Procedural Rights	%13,2
Good Administration of Personnel Issues	%13
Recruitment	%12,3
Respect for Fundamental Rights	%8,4
Strong Financial Management	%6,4
Ethic	% 2,7
Participation in EU decision-making processes	% 2,1
Other	% 3,2

Source: European Ombudsman Annual Report 2019, [www.ombudsman.europa.eu](http://www.ombudsman.europa.eu)

Considering the investigations that were closed as of 2019, the importance of the institution in ensuring good administration is better

understood. 82% of the files made to the Ombudsman are related to transparency, accountability, quality of service, proper use of discretion, and respect for procedural rights for the development of a culture of good administration together. In 2019, only 20,7% of the complaints were investigated, and no maladministration was found in 56,4% of the closed investigations. The number of investigations with maladministration is only 5% (European Ombudsman Annual Report, 2019).

In 2020, 16,892 recommendations were made through interactive guidance on the ombudsman's website. While 2148 new complaints were examined, 1262 information requests were answered by the ombudsman. While the number of investigations based on complaints is 365, the number of investigations opened by the ombudsman's initiative is 5. While investigations based on 392 complaints were closed, 2 investigations initiated by the ombudsman's initiative were terminated (European Ombudsman Annual Report, 2020).

Table 3. Investigations Closed in 2020

Subjects of Investigation	Percentage Distribution (%)
Transparency and accountability	%25
Service Culture	%24
Correct use of discretion	%17
Respect for Procedural Rights	%15
Good Administration of Personnel Issues	%11
Recruitment	%13

Source: European Ombudsman Annual Report 2020, [www.ombudsman.europa.eu](http://www.ombudsman.europa.eu)

Table 3 shows the investigations closed in 2020 regarding the violation of the right to good administration. It is observed that there is a partial increase in related investigation issues compared to 2019. In 2020, 17% of the complaints were investigated, and 1,5% of the closed investigations were found to be maladministration. These types of maladministration practices include administrative regulations, ruthlessness, discrimination, abuse of power, failure to respond, denial of information, and unnecessary delay (Gregory, 2000: 162). Another point that should be mentioned is that the ombudsman concludes cases faster than in previous years. In 2013, 41% of the cases were concluded in more than 1 year, while in 2020, 92% of the cases were concluded between 3 months and 1 year. As can be seen, the EU Ombudsman protects the institutions and organizations of the union, and the citizens of the union, against negativities such as bureaucratic processes, centralism, and secrecy, and contributes to ensuring transparency, accountability, and the legality of the decisions taken within the union (Reif, 2004: 391).

The decisions made in the implementing provisions accepted by the Ombudsman are listed as a peaceful solution, critical expression,

proposal draft, and special report (Göçmen, 2011: 498). In the peaceful resolution, the ombudsman works as a mediator between the relevant institution and the complainant for the satisfaction of the complainant. Critical expression is a method used when there are no conditions to eliminate the maladministration in the case and the maladministration does not lead to general results (European Ombudsman, Provisions, art. 6-7). If the Ombudsman thinks that the maladministrational situation can be eliminated by the relevant administration, then he/she presents a draft proposal to the relevant institution. The relevant institution sends its detailed opinion to the ombudsman within three months. In cases where the Ombudsman does not find the detailed opinion of the relevant institution sufficient, it is seen that the investigation is concluded by sending a special report to the EP regarding the maladministration (European Ombudsman, Provisions, art. 8). The European Commission ranks first with 274 applications among the institutions with the highest number of complaints to the ombudsman in 2019. The European Personnel Selection Office is in second place with 44 applications, followed by the EP with 21 applications. In 2020, 210 complaints were made to the ombudsman about the EU Commission, 30 about the European Personnel Selection Office, and 14 about the EU Foreign Relations Service. For the effectiveness of the EU ombudsman, EU citizens must know the decisions of the ombudsman. Decisions are translated into the language of the citizens of each country by the EP translation units (European Ombudsman, Framework Agreement, art.12).

### **3. Institutional Relations of the EU Ombudsman under Good Administration**

The first part of the organizations under the influence of the Ombudsman is the EP, the EU Assembly, and the EU Commission. In the second part, there are institutions such as the Committee of the Regions, the European Central Bank, and in the third part, the EU Environment Agency, which carries out auxiliary activities to the EU (Özer, 2017: 81).

At the end of the year, the Ombudsman presents its annual report to the AP regarding its actions and transactions in a year. It may also submit special reports to the EP to explain the responsibilities and actions determined by treaty and legal status. These reports are discussed in a session of parliament, and parliamentarians direct questions to the ombudsman. The reports are also published in the Official Journal of the EU (Perry, 2005: 185; Efe, 2011: 15). The Ombudsman also maintains close relations with the EP Petition Commission. Citizens can also raise some of their grievances to the EP Petition Commission, but these are more about political issues. The EP Petition Commission is responsible for the parliament's relations with the ombudsman and can write another report on top of the ombudsman's annual report and submit it to the EP (Köseoğlu, 2010: 56; Peters, 2005: 711-714). The EP cannot dismiss the ombudsman on its own but may request it from the CJEU for reasons of the general functioning of the ombudsman or serious misconduct. In

terms of budget, the ombudsman is beyond the control of the EP. The budget is decided jointly by the EP and the Council on a proposal from the Commission. The ombudsman's special reports are discussed within the EP and receive political attention, but the ombudsman's failure to take binding decisions leads EU institutions to rely on soft persuasion. For the execution of its recommendations in the special reports, the ombudsman enters into a generally cooperative relationship with the EP. The overlapping of the responsibilities of the Ombudsman with the EP Petition Commission constitutes another element in the decisions to be made against the parliament (Neuhold and Năstase, 2017: 42-44). According to Newman (2005: 147), the Ombudsman and the EP Petition Commission complement each other. While the Ombudsman examines allegations of maladministration, the Petitions Commission deals with general areas of activity such as member states' violations of EU legal rules, proposals on the development of EU policies, etc.

Since the European Commission makes decisions directly related to citizens, there are a lot of complaints about the institution to the ombudsman. The Ombudsman examines how the commission made the decision not to file a violation case against a member state. Even if he/she performs a check on the procedure, he/she can radically change the content of the decision. She/he often tries to stick to the formal aspect of the investigation, presenting his/her views on the time limit, unresponsiveness, and lack of motivation in making decisions. There have been cases where the Ombudsman accused the Commission of not assessing the situation correctly before making a decision. Regarding Council proceedings, the ombudsman received complaints of a lack of transparency. Stating that the motives for denying access to documents were insufficient, he/she suggested keeping records of measures related to justice and home affairs policy, and his/her recommendations were accepted by the Council. Likewise, the Commission has been recommended to keep a public record of documents to facilitate access to information. The main purpose here is transparency in the decision-making process, developing written criteria for good administrative behaviour, and ensuring the participation of citizens in the decision-making processes (Magnette, 2003: 688-689). After the Commission, the European Personnel Selection Office, about which the most complaints are made, is also faced with the accusations of providing insufficient information and discrimination (Efe, 2011: 22).

Although the Ombudsman does not have judicial powers, he/she is authorized to ensure the implementation of court decisions and to make criticisms and recommendations for the administrative functioning of the judiciary (Özer, 2017: 187). The European Ombudsman Network, which was established under the leadership of Ombudsman Nikoforos Diamandouros, also has the opportunity to communicate with the ombudsmen in the member countries (Diamandouros, 2005: 221). The EU ombudsman increases the sensitivity of union institutions to citizens.

It aims to ensure that institutions provide the best service to real and legal persons by good administration principles. In the good administration award application, which was initiated in 2017 to increase competitiveness among good administration practices and to popularize such practices, awards were given in six categories within 54 nominations in 2019. The overall award is given to the European Commission for its initiative in reducing plastic pollution and raising awareness. In 2021, the good administration award was awarded to the Civil Protection and Humanitarian Aid Department of the EU Commission and the European External Action Service for their efforts to repatriate EU citizens stranded abroad during the pandemic. The awards are presented in the categories of citizen-oriented, excellence in service delivery, communication, innovation/transformation, and crisis management. A project received a special award created by EU staff and selected by the public for the first time by online voting (EO, 12.10.2021). The institution established its mission between 2014-2019 based on serving European democracy, accountability of EU institutions, transparency, and ethics. It is committed to providing services by the principles of empathy, sensitivity, independence and impartiality, openness and participation, leadership in problem-solving, innovative approaches to resolving conflicts, and external awareness (European Ombudsman, 2014). In the document titled Respect and Compliance with Fundamental Rights published by the institution in 2017, it is stated that fundamental rights will be guaranteed together with procedural issues, the right to good administration, and access to documents. Accordingly, good administration principles will be beneficial in case of insufficiency of judicial instruments protecting human rights and eliminating administrative injustices (Karakul, 2018: 39). In the EO mission and strategy document towards 2024, the ombudsman stated her mission as helping to support European citizenship. She formulated his strategies as creating a lasting and positive impact on the EU administration, raising the awareness of citizens by dealing closely with the problems (European Ombudsman Strategy towards 2024: 4-6).

### **Conclusion**

The European Ombudsman is a body designed to ensure that EU institutions and administrations can be easily controlled by members of the European Parliament. It tries to implement the classical parliamentary accountability logic with a court profile. It defines and applies the general principles in cases submitted by individual complainants and in which investigation files are opened. It is one of the bodies that try to realize the rule of law in the EU according to the principles of good administration. Complaints are made to the Ombudsman about violations of the right to good administration especially freedom of expression and prohibition of discrimination (Pino, 2011: 446). Good administration enables public administration to act more sensitively to citizen demands. In addition to the legality in

administrative processes, it strengthens the ethical nature of the administration with transparency and respect for the right to information. Good administration is seen as an important guarantee of the protection of the citizens of the union in a democratic supranational structure.

In addition to individual applications, the ombudsman's ability to initiate inspections by itself contributes to the solution of socially important problems. The ombudsman implements the principle of continuity in administration by making it standard in its practices at the union level (Akıncı, 1999: 287). The high level of maladministration complaints made to the ombudsman shows that the ombudsman is an important platform protecting the rights of citizens and promoting democratic values at the EU level. Improvements have been made in the accountability and transparency of relevant institutions in the actual process of investigations into cases of maladministration. EU institutions respond to the recommendations of the ombudsman and strive to increase the transparency and accountability of their activities (Kostadinova, 2015: 1089). Accountability and transparency in financial transactions are the control of whether the public budget is used rationally. Citizens want to know where, how, for what and by whom public resources are spent, and public administrators are directly responsible to the public for their administrative actions and actions. The EU attaches great importance to accountability and transparency both to ensure fairness in financial transactions and to reduce inter-institutional disputes within the EU.

The European ombudsman is highly innovative in strengthening the administration qualitatively. It created the "Good Administration Award" in 2017, published a list of dos and don'ts for authorities to interact with lobbies, and developed a monitoring procedure for complaints about public access to documents. The EU ombudsman makes great efforts to ensure good administration and transparency in administrative procedures. In addition to access to documents, regular disclosure of information about the policies and actions of institutions has been accepted as one of the basic conditions of good administration (Wille and Bovens, 2020: 12-14). The increasing interest in the EU ombudsman with each passing year is an indication that it is an institution that observes all kinds of rights of EU citizens. Mutual communication between EU citizens and ombudsman has an ever-increasing momentum (Diamandouros, 2005: 220). It can be said that the Ombudsman is a balancing mechanism in the relations between EU institutions. Since the establishment of the ombudsman, complaints about maladministration have gradually decreased with the decisions taken and the directions it has made. The fact that the Ombudsman will finalize the complaints in a short time compared to the past will increase the satisfaction of the citizens of the EU. With the functionality of the Ombudsman in unity, the perspective of good administration will be further expanded and strengthened on democratic ground.

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