

EU rules on administrative procedure – State of play

According to the 2018 EPRS Impact Assessment on an open, efficient and independent EU administration, 'the availability of an open, efficient, transparent and accountable administration is widely acknowledged as a precondition for ensuring a high-quality policy and administrative process, as well as the legitimacy of public institutions in the eyes of citizens, business and civil society. At the EU level, "administrative procedures" are relevant in a variety of interactions involving many different EU actors. Rules for administrative procedures are scattered across a vast number of sources: international treaties, primary law, case law of the Court of Justice of the EU, secondary legislation, a variety of soft law documents and practices, as well as expressions of "self-commitment" and normative elements of internal work processes of parts of EU administration. This scattering ultimately caused a degree of fragmentation in the corpus of applicable rules, some of which are binding on the respective parts of the EU administration, whereas others are not'. It further points out that 'over the past two decades the introduction of a shared, ambitious set of rules on administrative procedure, applicable to all EU institutions, has emerged as an increasingly debated issue.'

2001 resolution

The first major initiative by the European Parliament on the issue of an administrative law for the EU was the adoption, in 2001, of a [resolution](#) endorsing the code of good administrative behaviour put forward by the European Ombudsman, and calling on the Commission to submit a proposal for a regulation containing such a code.

Administrative law working group and European added value assessment

In July 2010, following a decision by the Committee on Legal Affairs (JURI), a working group on EU administrative law was launched. It was tasked, amongst other things, 'to propose those legislative interventions it deemed appropriate in the light of the new legal basis relating to "open, efficient and independent administration" introduced by the Treaty of Lisbon and the right to good administration contained in the Charter of Fundamental Rights'. The resulting [working document](#) suggested 'that the Committee examine the possibility of preparing a legislative initiative for a single general administrative law binding on the Union's institutions, bodies, agencies and offices, based on Article 298 TFEU, focusing on administrative procedure and providing a minimum safety net of guarantees to citizens and businesses in their direct dealings with the EU's administration'.

Two years later, in a [European Added Value Assessment](#), produced at the request of the Committee on Legal Affairs, the European Added Value Unit of the European Parliament's Secretariat investigated the prevailing context and the added value of possible action at EU level. It concluded that such action 'would result in clearer standards and more open, better quality administration that delivers results more efficiently and at a lesser cost [, with] clear benefits for the citizens and the administration'.

2013, 2016 and 2017 resolutions and analysis

In 2013, the European Parliament adopted a new [resolution](#) requesting the Commission to submit, on the basis of Article 298 TFEU, a proposal for a regulation on a European Law of Administrative Procedure. The resolution included detailed recommendations as to the content of the proposal requested. In its [response](#), the Commission undertook to 'carry out an in-depth analysis of all aspects of the issue [and to] consider all options to improve the application of the principles of good administration in all institutions, bodies, offices or agencies in the EU'.

In 2015, the Committee on Legal Affairs requested the European Parliament's Policy Department on Citizens' Rights and Constitutional Affairs to prepare an [in-depth analysis](#) on the general principles of EU

administrative procedural law. The resulting analysis found that there is not 'an established authoritative catalogue of general principles of EU administrative procedural law ... - neither as an instrument of primary or secondary EU law, nor in the jurisprudence of the [Court of Justice of the European Union], nor is there a minimum consensus in scholarship about such a list'. The analysis identified a number of general principles of EU administrative procedural law, and put forward drafting proposals for such general principles to be included in the recitals of a draft Regulation on EU Administrative procedures.

In another [resolution](#), in 2016, the European Parliament called again on the Commission to come forward with a legislative proposal for a regulation for an open, efficient and independent European Union administration and to include it in its work programme for 2017. The resolution included a proposal for a regulation – following closely the main recommendations in the 2013 resolution and proposing a partial harmonisation of EU administrative procedures – and invited the Commission to consider it as a basis for its legislative proposal.

In its [follow-up](#), the European Commission replied that it was 'not convinced that the benefits of using a legislative instrument that would codify administrative law would outweigh the costs', adding that the text proposed by Parliament does not 'assess the concrete impact of the provisions it contains'. This prompted the Committee on Legal Affairs to ask EPRS to conduct an impact assessment to analyse the costs and benefits of possible alternative options, in particular: their impact on the accessibility of the EU administration; their impact on the transparency of the EU administration; the extent to which they guarantee legal certainty and adequately protect citizens' rights; and, their impact on trust in the institutions and on the efficiency and effectiveness of administrative procedures.

Parliament's call for a legislative proposal on a European law of administrative procedure was reiterated in its [resolution](#) of 26 October 2017 on monitoring the application of EU law [in] 2015. Parliament also recalled its previous resolutions on the matter and again asked the Commission to further consider the proposal for a regulation annexed to the 2016 resolution.

Impact assessment and public consultation

The requested [impact assessment](#), was commissioned in December 2017 by the European Parliament's Ex-Ante Impact Assessment Unit. It compared the option of 'doing nothing' with two alternative policy options: (i) making the 2001 Code of Good Administrative Behaviour binding, and (ii) adopting the regulatory framework proposed by the Parliament in 2016. It concludes that adopting the regulatory framework proposed by Parliament in its 2016 resolution would be the preferred option, since that would lead to clear advantages in terms of cost savings for the public, would improve accessibility and transparency, promote legal certainty and predictability, and enhance the legitimacy of, and trust in, EU institutions. According to the impact assessment, this option would also offer the additional advantage of being more compatible with the administrative law framework of Member States, and is more suitable for preparing the EU administration for the transition towards e-government and e-administration tools.

The impact assessment was accompanied by an open [public consultation](#), run by the Committee on Legal Affairs with the assistance of the European Added Value Unit. The open public consultation was open to respondents worldwide from 15 December 2017 to 9 March 2018 and available in all official EU languages. In total, 166 fully completed online responses were received from 20 Member States. Overall, most responders supported the idea of further action at EU level to simplify EU administrative rules and procedures.

The impact assessment and the accompanying public consultation were presented at a hearing of the Committee on Legal Affairs on 10 July 2018. At that hearing, the then-First Vice-President of the European Commission, Frans Timmermans, responsible, inter alia, for Better Regulation and Interinstitutional Relations, expressed his interest in the work undertaken by the European Parliament and assured that the Commission would carefully examine the outcome of the impact assessment, and would continue working with the Parliament on all options and arguments without taboos.

This 'at a glance' note has been drafted at the request of a member of the European Economic and Social Committee, under the Cooperation Agreement between the Parliament and the Committee.