



EUROPEAN PARLIAMENT

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Committee on Petitions

2012/2024(INI)

25.6.2012

OPINION

of the Committee on Petitions

for the Committee on Legal Affairs

on the Law of Administrative Procedure of the European Union
(2012/2024(INI))

Rapporteur: Margrete Auken

(Initiative – Rule 42 of the Rules of Procedure)

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SUGGESTIONS

The Committee on Petitions calls on the Committee on Legal Affairs, as the committee responsible:

- to incorporate the following suggestions in its motion for a resolution:
1. Welcomes the conclusions of the Working Group on EU Administrative Law of Parliament's Committee on Legal Affairs;
 2. Considers that, with the development of the competences of the European Union, citizens are increasingly directly confronted with the Union's administration, without always having the corresponding procedural rights which they could enforce against it in cases where such actions may prove necessary;
 3. Points out that, following the entry into force of the Treaty of Lisbon, the right to good administration is a fundamental right of citizens, and that 'soft-law' administrative procedures, which can be modified unilaterally by the institution concerned, are not always sufficient to protect the individual's right to good administration, although they will retain their importance for an overall culture of good administration as an addition to 'hard-law' provisions;
 4. Recalls that, previously, the first European Ombudsman proposed the adoption of a binding code on good administrative behaviour and that Parliament supported that proposal and called on the Commission to present a proposal, based on the code, for a general regulation on administrative procedures, but that the Commission agreed only to the adoption of non-binding guidelines;
 5. Calls on the Commission to envisage a regulation, based on Article 298 of the Treaty on the Functioning of the European Union (TFEU), that provides for minimum standards of quality and procedural guarantees which would be horizontally applicable to all Union administration; considers that that general law should be limited to direct EU administration, in accordance with Article 298 TFEU;
 6. Calls on the Commission to guarantee the right to good administration by an open, efficient and independent European administration, with the right to good administration, as defined by Article 41 of the Charter of Fundamental Rights and subject to the general restrictions of Article 51 thereof, being understood as every person's right to have his or her affairs handled impartially, fairly and within a reasonable time;
 7. Notes that the general principles of the future European administrative regulation should include the principle of equality and the principles of impartiality and independence, while guaranteeing fairness, lawfulness and legal certainty and the principles of proportionality and openness;
 8. Considers that the introduction of the service principle – that is, the principle that the administration should seek to guide, help, serve and support citizens, act with appropriate courtesy and therefore avoid unnecessarily cumbersome and lengthy procedures, thus

saving the time and effort of both citizens and officials – would help to meet the legitimate expectations of citizens and benefit both citizens and the administration in terms of improved service and increased efficiency;

9. Stresses the urgent need to introduce more extensive administrative rules for the procedure applicable under the current Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 on public access to European Parliament, Council and Commission documents¹, to be adopted on the basis of Article 15 TFEU, with particular regard to codifying the relevant case-law of the Court of Justice and extending the scope of the Regulation to the whole of the EU's administration; similarly, more effective provisions ought to exist concerning the procedure applicable to the processing of personal data – particularly regarding implementation of the citizens' rights guaranteed therein – under the current Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data², to be adopted on the basis of Article 16 TFEU; acknowledges, however, that the regulations mentioned have led to the codification of two areas of general Union administrative law, which has already enabled relatively clear administrative procedures to be introduced, and that the further development of these should build on what has been achieved to date;
10. Considers that generally applicable rules are necessary in order to guarantee the procedural rights – such as the right to be informed and the right to be heard – of natural or legal persons when a decision is taken on a matter in which they can be considered a party and which produces legal effects for the person or entity concerned, and regarding the right to access one's own files;
11. Calls on the Commission to introduce specific administrative provisions for infringement proceedings based on Article 258 TFEU, in order to prevent any possibility of abuse of power and arbitrary decisions; considers that such a provision should regulate the whole relationship between the Commission and a citizen or undertaking that submits a complaint which may lead to an infringement procedure, thereby strengthening primarily the position of the individual complainant; regards it as particularly advisable that Parliament's Committee on Petitions be provided with clear information on the stages reached in infringement procedures covered by an open petition in order to ensure parliamentary scrutiny of the fundamental right to petition the European Parliament;
12. Notes that the Staff Regulations lay down general rules on conflicts of interest as regards situations in which an official must inform his/her superiors, etc., but considers that those rules need to be supplemented by rules governing the consequences, such as the possible revocation of decisions taken in violation of the rules on conflicts of interests, as well as the establishment of a deadline for enforcement of all decisions, in order to ensure the predictability of administrative processes;
13. Considers that Union citizens should expect a high level of transparency, efficiency, swift

¹ OJ L 145, 31.5.2001, p. 43.

² OJ L 8, 12.1.2001, p. 1.

execution and responsiveness from the Commission, regardless of whether they are making a formal complaint or exercising their right of petition under the Treaty, together with information as to the possibility of their taking any further action in the matter.

14. Calls on the Commission to engage in adequate consultation with all relevant actors when drawing up a proposal for a regulation on the introduction of general EU administrative procedures, and in particular to make use of the special knowledge and expertise of the European Ombudsman, since it is to him that public complaints about abuses within the bodies and institutions of the Union are made;
15. Considers that the Commission should also investigate the use of a further extension of IT-based services under the regulation; recalls that not only that the potential of IT-supported administrative procedures is not limited to new online information systems but also that they can encompass interactive 'settlement systems' between administrative authorities and also between the authorities and citizens;
16. Calls on the Commission, when drawing up a proposal for a general administrative act, to increase public awareness of the right of Union citizens to good administration, including through its relevant information services and networks (such as Europe Direct); stresses that such information initiatives should also take into account the appeal procedures that are available in the event of a presumed violation of the right to good administration and, in particular, the specific limits of those procedures, as laid down in, for example, Article 228 TFEU on the European Ombudsman; is convinced that constructive public pressure will result from increased knowledge and awareness amongst citizens concerning that right and the associated complaints procedures, and that this may be conducive to the formation of an open, efficient and independent administration in everyday affairs.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	19.6.2012
Result of final vote	+: 18 -: 0 0: 0
Members present for the final vote	Margrete Auken, Philippe Boulland, Simon Busuttil, Michael Cashman, Lidia Joanna Geringer de Oedenberg, Iliana Malinova Iotova, Peter Jahr, Lena Kolarska-Bobińska, Erminia Mazzoni, Willy Meyer, Ana Miranda, Adina-Ioana Vălean, Jarosław Leszek Wałęsa, Tatjana Ždanoka
Substitute(s) present for the final vote	Phil Prendergast, Axel Voss, Angelika Werthmann
Substitute(s) under Rule 187(2) present for the final vote	Othmar Karas