

## EU ADMINISTRATIVE LAW



Over the last decades, the European Union has developed a series of ad hoc administrative procedures for the direct implementation of its rules in a number of areas - such as competition policy, trade policy, state aids, access to EU documents, the EU civil service - , which resulted in a fragmented body of rules, whether in the form of law or soft law.

The need to depart from this sector-specific approach to ensure consistent EU administrative procedures has therefore started to be debated in the academic sector as well as within the EU institutions. In this respect, following the entry into force of a new legal basis on administrative law introduced by the Lisbon Treaty the European Parliament has called for the adoption of a single European Administrative Procedure binding on its institutions, bodies, agency and offices including enforceable procedural rights for citizens when dealing with the Union's direct administration.

### LEGAL FRAMEWORK

**Article 298(1) of the [Treaty on the Functioning of the European Union](#) (TFEU)**, which is an innovation of the Lisbon Treaty, provides that in carrying out their missions, the institutions, bodies, offices and agencies of the Union shall have the support of an **open, efficient and independent European administration**.

**Article 41 of the [Charter of Fundamental Rights of the European Union](#)** enshrines the **right to good administration** by granting to every person 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. This includes the right of every person to be heard before any individual measure which would affect him or her adversely is taken; the right of access to files, while respecting the legitimate interests of confidentiality and of professional and business secrecy; and the duty of the administration to give reasons for its decisions.

The **case-law of the Court of Justice of the European Union** has contributed to shape EU administrative law by developing over the years general principles of administrative law and procedure, especially those related to the rights of defence. In this respect, landmark decisions acknowledged the [right to be heard](#), the [duty for the administration to give reasons](#) and to [adopt decisions within a responsible time](#), the [privilege against self-incrimination](#).

### Working Group on EU Administrative Law

During the 7th legislature the Committee on Legal Affairs set up a Working Group on EU Administrative Law aiming at **tacking stock of the existing EU rules** on administrative law and at **examining the possibility of legislative action** on the basis of Article 298 TFEU. The findings of the activities of research, analysis and discussions of the Working Group are summarised in a [working document](#) **suggesting the adoption of a**

**legislative initiative** for a single general administrative procedure binding on the Union's administration. The working document was approved by the Committee on Legal Affairs at its meeting of 22 November 2011.

### European Parliament's resolution

Following the recommendations of the Working Group and the own-initiative [report by the Committee on Legal Affairs](#) on 15 January 2013 Parliament adopted a [resolution with recommendations to the Commission on a Law of Administrative Procedure of the European Union](#). The resolution was adopted under Article 225 TFEU (legislative initiative). Parliament requested the Commission to submit a proposal for a regulation on a European Law of Administrative Procedure codifying the fundamental principles of good administration and regulating the procedure to be followed by the Union's administration in its relations with the public. The **scope** of the Regulation should be limited to the **direct administration of the EU** and should lay down a procedure applicable as a **de minimis rule** where no *lex specialis* exists. Furthermore, the resolution lays down a number of detailed recommendations as to the content of the proposal requested. Parliament's request has not been followed up by a Commission proposal yet.

## EXPERTISE PROVIDED BY THE POLICY DEPARTMENT C

The Policy Department provided the Working Group on EU Administrative Law with extensive independent expertise from representatives of the academia and the law practice.

As a first step, the following in-depth analyses carried out the **stocktaking of the existing EU administrative rules**, an **assessment of their interaction** as well as the **analysis of the possibility of a EU single legal framework on administrative procedure** following the entry into force of the Lisbon Treaty: '[EU Administrative Law - The Acquis, Towards an European Regulation on Administrative Procedure](#) and [Relevant provisions of the Lisbon Treaty on EU Administrative Law](#).

In the context of the debate on EU rules on access to documents, an overview on how **transparency and participation** have been ensured in EU law and practice is provided in the in-depth analysis on [Citizens and EU Administration - Direct and indirect links](#).

Furthermore, with a view to delivering an insight into a **selection of sector-specific EU administrative procedures** the following in-depth analyses were commissioned: [Administrative Procedures in EU External Trade Law](#), [Administrative Procedure in EU Civil Service Law](#), [Administrative Procedure in Environment Files Linked with Article 258 TFEU Proceedings : A Lawyer's Perspective](#), [Administrative procedures files linked with Article 258 TFEU proceedings: an academic perspective](#).

In addition to that, during a delegation of the Legal Affairs Committee, the Policy Department organized a **Workshop on the state of play and future prospects of EU administrative law** at the University of León (27 - 28 April 2011), focusing on a number of aspects and questions related to EU administrative law, including the scope and evolution of EU administrative law; the administrative law aspects of the EU rules on access to documents and data protection; the need for increased coherence in EU administrative law. A [collective edition](#) contains the contributions for this Workshop commissioned by the Policy Department to several academic experts as well as law practitioners.

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