Law of administrative procedure of the European Union

2012/2024(INL) - 12/11/2012 - Committee report tabled for plenary, single reading

The Committee on Legal Affairs adopted the report by Luigi BERLINGUER (S&D, IT) containing recommendations to the Commission on a Law of Administrative Procedure of the European Union (Initiative – Rule 42 of the Rules of Procedure).

Members recall 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**. The Union's existing rules and principles on good administration are scattered across a wide variety of sources: primary law, case-law of the Court of Justice of the European Union, secondary legislation, soft law and unilateral commitments by the Union's institutions.

At present, the fact that the **Union lacks a coherent and comprehensive set of codified rules of administrative law** makes it difficult for citizens to understand their administrative rights under Union law. In its resolution of 6 September 2001, in the belief that the same code of good administrative behaviour should apply to all Union institutions, bodies and agencies, Parliament approved with amendments the European Code of Good Administrative Behaviour drafted by the Ombudsman. In the same resolution, Parliament called on the Commission to submit a proposal for a regulation containing a **code of Good Administrative Behaviour** based on Article 308 of the Treaty establishing the European Community.

According to Members, the codification 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 both of citizens and of 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.

Members are convinced that a European Law of Administrative Procedure:

- would help the Union's administration in using its power of internal organisation to facilitate and promote the highest standards of administration
- could enhance the Union's legitimacy and increase the confidence of citizens in the Union's administration;
- could strengthen a spontaneous convergence of national administrative law, with regard to general principles of procedure and the fundamental rights of citizens vis-à-vis the administration, and thus strengthen the process of integration;
- could foster cooperation and the exchange of best practices between national administrations and the Union's administration.

In light of these considerations, the report requests the Commission to submit, on the basis of Article 298 of the Treaty on the Functioning of the European Union, **a proposal for a regulation on a European Law of Administrative Procedure**. Such a Regulation should:

- aim to guarantee the right to good administration by means of an open, efficient and independent administration based on a European Law of Administrative Procedure;

- apply to the Union's institutions, bodies, offices and agencies ("the Union's administration") in their relations with the public. Its scope should therefore be limited to direct administration;
- codify the fundamental principles of good administration and should regulate the procedure to be followed by the Union's administration when handling individual cases to which a natural or legal person is a party, and other situations where an individual has direct or personal contact with the Union's administration;
- include a universal set of principles and should lay down a procedure applicable as a *de minimis* rule where no *lex specialis* exists.

The guarantees afforded to persons in sectoral instruments must never provide less protection than those provided for in the regulation.

The report lays down a number of **detailed recommendations** as to the content of the proposal requested. These recommendations concern: (i) the objective and scope of the regulation to be adopted; (ii) the relationship between the regulation and sectoral instruments; (iii) the general principles which should govern the administration; (iv) the rules governing administrative decisions; (v) the review and correction of own decisions; (vi) the form and publicity to be given to the regulation.