Resolution on an open, efficient and independent European Union administration

2016/2610(RSP) - 09/06/2016 - Text adopted by Parliament, single reading

The European Parliament adopted a resolution tabled by its Committee on Legal Affairs for an open, efficient and independent European Union administration.

Parliament recalled that, in its resolution of 15 January 2013, it had called for the adoption of a regulation on an open, efficient and independent European Union administration under Article 298 TFEU, but despite the fact that the resolution was adopted by an overwhelming majority (572 votes to 16 with 12 abstentions), **Parliament's request was not followed up by a Commission proposal.**

Members stressed that **the entry into force of the Treaty of Lisbon has provided the Union with the legal basis for the adoption of an Administrative Procedure Regulation**. Article 298 of the Treaty on the Functioning of the European Union (TFEU) provides for the adoption of regulations to assure that in carrying out their mission, the institutions, bodies, offices and agencies of the Union have the support of an open, efficient and independent European administration. The entry into force of the Treaty of Lisbon also gave the Charter of Fundamental Rights of the European Union the same legal value as the Treaties.

Furthermore, **Title V ("Citizens' Rights") of the Charter** enshrines the right to good administration in Article 41, which provides that 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.

Article 41 of the Charter further indicates, in a non-exhaustive way, some of the elements included in the definition of the right to good administration such as the right to be heard, the right of every person to have access to their file, the right to be given reasons for a decision of the administration and the possibility of claiming damages caused by the institutions and its servants in the performance of their duties, and language rights.

Accordingly, Parliament asked the Commission to examine a draft proposal attached to the resolution and to present to Parliament **a legislative proposal to be included in its work programme for the year 2017.**

Based on the principle that an efficient Union administration is essential for the public interest, the draft resolution submitted by Members lays down **the procedural rules which shall govern the administrative activities of the Union's administration.** These procedural rules aim at assuring both an open, efficient and independent administration and a proper enforcement of the right to good administration.

The regulation should apply to the administrative activities of the Union's institutions, bodies, offices and agencies, but not to Member States' administrations, nor to legislative procedures, judicial proceedings or procedures leading to the adoption of non-legislative acts directly based on the Treaties, delegated acts or implementing acts.

The proposed regulation should contain provisions relating, inter alia, to:

- the obligation for Union administration to (i) **notify** any decision to initiate an administrative procedure to the parties and provide the necessary information enabling them to exercise their rights during the administrative procedure; (ii) **acknowledge receipt** of the application in writing where the administrative procedure is initiated at the request of a party;
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- the initiation of an administrative procedure within a **reasonable time** after the event has occurred; the regulation should include provisions on a period of limitation;
- the exercise a **duty of care**, which obliges the Union's administration to establish and review in a careful and impartial manner all the relevant factual and legal elements of a case taking into account all pertinent interests, at every stage of the procedure. To that end, the Union's administration should be empowered to hear the evidence of parties, **witnesses and experts**, request documents and records and carry out visits or inspections. When choosing experts, the Union's administration should ensure that they are not affected by a conflict of interest;
- the parties should have a **duty to cooperate** by assisting the administration in ascertaining the facts and circumstances of the case;
- the conditions and procedures that should be observed for **inspections** carried out by the administration, in order to safeguard the rights of the parties;
- **the right to be heard** by the parties in all proceedings initiated against a person which are liable to conclude in a measure adversely affecting that person;
- the right of a party to the administrative procedure to **have access to its own file**, bearing in mind the protection of the legitimate interests of confidentiality and of professional and business secrecy;
- the adoption of administrative acts within a **reasonable time-limit**. Any delay in adopting an administrative act should be justified and the party to the administrative procedure should be duly informed thereof and provided with an estimate of the expected date of the adoption of the administrative act;
- the imposition of a duty on the Union's administration to state clearly **the reasons** on which its administrative acts are based and to enable the parties to defend their rights by an application for **judicial review**;
- the obligation for the Union's administration to ensure that its administrative acts are drafted in a **clear, simple and understandable language** and take effect upon notification to the parties. When carrying out that obligation, parties should have the right to communicate and to complete, where possible and appropriate, all procedural formalities at a distance and by electronic means;
- the right of citizens of the Union to write to the Union's institutions, bodies, offices and agencies in one of the languages of the Treaties and to have an answer in the same language;
- the right to **protection of personal data** ;
- lastly, the obligation to ensure that **Union rules are clear and precise,** so that individuals are able to ascertain unequivocally what their rights and obligations are and be able to take steps accordingly.