



## **SIGMA**

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## **SEMINAR**

On

# **Administrative Simplification**

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**Administrative simplification  
through a general law on administrative procedures  
for the protection of citizens' rights  
and economic development:  
the key issue of legal certainty and predictability in  
administrative performance**

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**Administrative simplification  
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Administrative simplification through a general law on administrative procedures, as opposed to “street level simplification”, is not immediately perceptible by the public as achieving the goals of decreasing the time and resources needed in order to respond to the requirements of public administration. In the medium and long run, however, its impact might be far more important. Furthermore, codification of administrative procedures is a way of responding not only to the question of decreasing burdens for the citizens and businesses, but also of developing the rule of law, which in turn has a positive impact on economic development, especially in the context of the European Union.

This paper addresses the main practical issues of the question of administrative simplification through a general law on administrative procedures on the basis of the experience of the EU member states, of the EU institutions, and also of the United States federal administration.

## **1. The rule of law and legal certainty: why, how and for whom?**

Complying with the rule of law is considered as an indispensable component of good governance. What is usually meant by the rule of law is a system whereby public authorities decide on the basis of legal rules established by democratically accountable institutions, respectful of fundamental rights and subject to judicial review by independent tribunals and court. Legal certainty is a major component of modern understanding of law and underlines the direct link which there is between the rule of law and predictability of administrative behaviour.

### **a. The two major components of law: legal certainty & equity/fairness**

All modern legal systems are designed in order to try and satisfy two major goals: certainty as to the rules which are applicable to social life and need to be complied with, and equity (in the sense of fairness). While legislators are normally in a position to reconcile legal certainty and equity, the institutions that

are in charge of applying law to actual cases in social life, i.e. courts and tribunals as well as public administrations are usually facing a tension between legal certainty and equity.

Public administration furthermore often faces a tension between legal certainty and the flexibility necessary to output oriented management. This is unavoidable, due to the fact that achieving legal certainty necessitates a certain stability of the rules, while social conditions are changing.

### **b. Legal certainty as a protection of the weaker party**

While recognising the tension between legal certainty and flexibility in decision making, it is essential to recall that legal certainty is not a value per se. Legal certainty is a characteristic of modern law in order not only to guarantee stability in social relations and predictability. It is normally also reconciled with equity/fairness in that legal certainty is intended mainly as a tool to protect the weaker party(ies) in social intercourse, while the most powerful party(ies) can rely on their own economic, social or physical strength in order to oblige their counterparts to act according to their wishes.

The difference between mere legal formalism and compliance with the rule of law lays precisely in the recognition by public authority that, ultima ratio, legal certainty needs to be applied in order to achieve protection of the weaker party. Deciding who is the weaker party, is a matter for the legislator in the first analysis, but also for the courts and public administration when they apply the law.

### **c. Legal certainty and “written law”: legistics as a practical science**

“Written law”, i.e. regularly published statutes and regulations having a legally binding nature, are a primary tool of legal certainty, as opposed mainly to customary law. Furthermore, it has a structural advantage over “case law”. Case law is also usually written – practically speaking – but it is not always published, and the extent to which what is written is legally binding is not always clear. This is whether modern law has an ever growing component of written law.

This is not only true for the so called “civil law” countries (most countries of continental Europe and their former colonies) which have taken up and further developed the codification techniques which had been brought to the level of a “science” by lawyers of the Roman Empire. It is also true for so called “common law” countries (England and its former colonies, including the US), where not only public law is mainly made of written law (with the exception of the conventions of the constitution in the United Kingdom), but where major parts of private law (i.e. the law of contracts, of liability and of property) are made of statutory or regulatory rules.

The modern development of written law to some extent coincides with a decline in “legistics”, i.e. the science of writing statutes and regulations. Instead of drafting rules in a way which is clear and understandable to the citizen, most government agencies and legislators have a tendency to make an exaggerated

use of professional jargon and to repeat standard formulations without further reflection.

This is why in administrative reform, and more generally in reforming the state legistics is becoming a major component: this is achieved through programmes of codification of existing rules and through applying a number of tools and principles for better regulation to the drafting of new laws and regulations, and to amending exiting ones.

#### **d. Legal certainty and “case law”: consistency in adjudication by courts and by administrative agencies**

While there is an inherent tension between legal certainty and non written law, this tension can be overcome in “case law”, i.e. in the line of decisions on adjudication which are being taken by courts as well as by administrative authorities. This is being done by applying clear and publicised principles for the interpretation rules and principles of written law, for the application of general principles of law that are not necessarily written, and for balancing interests in litigation.

Principles like proportionality, reasonableness, respecting legitimate expectations etc. are intended to provide for legal certainty and equity.

It is however true that identifying and understanding those principles often requires a legal education which goes beyond that of many public officials, let alone the ordinary citizen. Codification is often the solution adopted in helping to clarify and publicise the principles that give consistency to adjudication. This type of codification is not necessarily of a legally binding nature per se, although it may over time develop into a body of legally binding rules.

An excellent illustration of this phenomenon is being given by the European Union Charter of fundamental rights: the Convention which drafted the Charter in 2000 had not been asked to prepare a legally binding instrument. However it decided to draft the text “as if it had to be legally binding”, drawing on existing but dispersed principles and rules. The Charter was “proclaimed” in December 2000, and with the Lisbon Treaty of December 2007, it should get legally binding force, equal to that of the EU treaties, once the Lisbon Treaty will enter into force. This is especially important as far as Art. 41 on the Right to Good Administration is concerned.

#### **e. Is legal certainty an impediment to output oriented management? The concept of administrative discretion**

Laws and regulations applicable to the public sector are often perceived by public officials, by the public and by proponents of administrative reform as an impediment to efficient output oriented management. While this is often corresponding to reality in actual life, there is a misunderstanding on the part of those who claim that law is the problem, and that therefore law should play a lesser role in public management.

First, while it is true that badly drafted statutes and regulations are increasing “red tape” and burdens on citizens, businesses and public officials, one of the remedies is the good application of logistics. Well drafted rules and regulations serve predictability and are therefore a tool for good management (see 2.).

Second, modern administrative law has developed a legal concept which is designed in order to reconcile legal certainty and predictability on one side and on the other making decisions in a flexible way, adapted to the relevant context. Administrative discretion – which should not be mistaken for arbitrariness – has been developed by courts and tribunals as well as by public administration itself exactly for this purpose. It remains true that exercising administrative discretion requires well trained public officials. Many governments think that it is easier and less expensive to issue very detailed directives rather than training officials. This is a source of excessive rule making which largely contributes to the bad reputation of “law” with public officials and the citizens.

## **2. Predictability as a key to good management**

Predictability is not only a feature of legal certainty and thus of the rule of law. It is a major component of good management, especially within an organisation or a set of organisations, as well as in social intercourse, as the practice in drafting contracts is demonstrating. Predictability can be achieved by a series of complementary means, and is indispensable for complex organisational settings, like modern public administration.

### **a. Predictability through clear objectives**

Clear objectives are a major component of output oriented management. Instead of mechanically applying rules and routines, those who have to make decisions in an organisation know why they have to decide and thus are able to exercise the necessary discretion in choosing between different possibilities.

This is true in all types of organisation and a major component of management in the private as well as in the public sector.

In public sector management, it is normally the task of politicians to set objectives. Setting clear objectives requires a good knowledge not only of the issues at stake and of the feasibility of public action, but also of drafting texts, whether legally binding or not.

### **b. Predictability through routines**

A major component of management has always been establishing, applying, monitoring and reforming organisational routines. They normally increase predictability of behaviours along the line of management and therefore predictability of output. Obviously routines need to be adapted to changes both within the organisational structure and in the environment: obsolete routines might continue to serve predictability, but to the detriment of efficiency.

As soon as organisations grow in size and complexity, writing down routines becomes a necessity. Clarity as to the legal value of those written rules and

efficient modes for revising them are indispensable in order to avoid bureaucratisation.

### **c. Predictability through clear organisational settings**

In complex organisations, predictability is also achieved through organisational design: clear organisational settings and allocation of competences (powers) avoid contradicting overlaps and passive attitudes in an organisation.

In public management, one of the key issues is to decide to what extent organisational settings and allocation of competences need to be done through legally binding instruments, and how they are to be formulated. There is a great variety as far as organisational settings are concerned (in the UK the use of binding legislation in that respect is very limited for the Civil service, due to the principles of the “Royal prerogative”, while in Italy or the US, statutes are needed for this purpose). Allocation of competences necessitates binding law in modern democracies in order to ensure accountability; the differences from country to country are in the formulation of competences and their devolution to different levels of public authority.

### **d. Predictability through legal rules**

Legal rules are intended to achieve predictability but also equity/fairness (see 1.)

### **e. Predictability as indispensable condition for delegation**

A major link between predictability and good management is that predictability is a necessity for delegation. Delegation can only be practised if there is enough trust between the person who delegates and the person who exercises delegated powers of decision.

While in a small organisation trust is mainly based on personal knowledge of each other, in a complex organisation, it can only be based on predictability in the attitudes of both. In the public sector trust is not only a question of mutual relations within the organisation but also a question of accountability.

## **3. What kind of codification: “hard law or soft law”?**

The words “code” and “codification” are a source of misunderstanding, because they refer to instruments with very different legal nature. In a number of continental European countries, the word “code” is usually used for statutes – or to a lesser extent regulations – of a comprehensive nature, which try and assemble all the rules and principles applicable to a given sector. In the United Kingdom, on the contrary, the word “code” is usually being used for written collections of rules and principles which do not intend to have a legally binding nature. In some countries, other expressions are being used, such as “single text” (*testo unico*) for a legally binding code, or by adding adjectives to the word code (code of ethics, codes of good behaviour etc.). This is becoming more and more common with the development of self-regulation in the private sector.

### **a. The development of laws of administrative procedure**

The development of legally binding codes of administrative procedure is a common phenomenon in the majority of EU and OECD member states (see *the paper Developing Administrative Simplification: selected experiences from recent administrative reforms in EU Institutions and Member States*):

- Austrian law on administrative procedure, 1925, revised 1991;
- US Administrative Procedure Act, 1946;
- Spanish law on administrative procedure, 1958, revised 1984;
- German law on administrative procedure, 1976, revised 1996;
- Danish law on public administration, 1986;
- Portuguese law on public administration, 1991 (experimental until 1995);
- Italian and Dutch laws on public administration, 1992;
- French law on relations between citizens and administration, 2000;
- Etc.

These are examples of general laws (more or less comprehensive). Beyond this phenomenon, sectoral statutes and regulations very often include rules and principles on administrative procedure. One of the main purposes of general laws is to overcome the complexity and frictions generated by the multiplication of sectoral laws and regulations which sometimes contradict themselves, and which often create confusion in the minds of citizens.

### **b. The development of codes of good behaviour, ethics etc.**

Parallel, or as a substitute to laws of administrative behaviour, a number of codes of good behaviour (e.g. EU) or codes of ethics (e.g. Portugal) have been developed in the recent years. There are also a growing number of private codes of good behaviour, published by big businesses or networks of businesses.

The reasons for choosing a legally non binding or a legally binding form vary from case to case, due to the availability or not of hard law as an instrument for codifications, to the wish for experimentation before setting down binding rules, and to the wish to keep some institutions out of the process.

### **c. Differences and common features between hard law and soft law codification**

The legally binding nature (hard law) or non binding nature (soft law) of a codification is not determined by its content, but by external characteristics of the instruments.

The fact that an instrument is legally binding or not is not important for mere conceptual or ideological reasons, but because the legally binding nature triggers the possibility of judicial review and enforcement by sanctions, while non binding instruments only rely on incentives and moral persuasion for enforcement.

Using non binding instruments avoids for a more appealing and to certain extent clearer method of drafting, using "plain language". While plain language is at first glance more understandable to the citizens, it often lacks the characteristics which allow for legal certainty.



On the other hand, non legal binding instruments may well be drafted in the same way as a statute or regulation. This is often the case, but not only, when codification is undertaken in a series of steps that follow each other, including experimental phases.

This is also sometimes the case in order to have a general overarching code which then will be detailed in different manners according to sectors. The same purpose may however be achieved with a general law on administrative procedure complemented by sectoral regulations.

#### **4. What content for an administrative procedure code?**

There is no general template for a code of administrative procedure. Its content will vary from country to country according to the structure, organisation and culture of public administration but also according to the requests from citizens and businesses and to the education and/or vision of politicians.

An interesting example of a code of administrative procedure is the European Code of Good Administrative Behaviour. This code has been drafted by the European Ombudsman as a model for the European Institutions (Commission, Parliament, Council, executive and regulatory agencies), who have not yet decided to transform it into a legally binding regulation that would be applicable to all EU Institutions and agencies. It is often being used as a basis for discussion of what could be a general law on administrative procedure in EU member states and beyond. This not only applies to countries which do not have a general law on administrative procedure. It also happens for instance in Germany, as the European Code typically also contains elements that go beyond justifiable rights.

##### **a. Codification of routines**

Administrative procedure codes usually identify the different steps which lead to a decision.

The identification of internal steps is important, due to the organisational setting and to the consequences of principles on hierarchy and delegation, these steps however often vary according to sectors and therefore the general law can only indicate very general principles.

Furthermore, as codification of administrative procedure is conceived in order to increase predictability for citizens and businesses, modern laws on administrative procedure give a prominent place to the procedures by which opinions are being taken on board, and by which addressees are heard.

*Examples from the European Code of Good Administrative Behaviour: articles 12 to 15 and 17 to 24 (see Annex)*

##### **b. Codification of rights**

A more outward looking codification may formulate as rights routines or obligations of the administration: *compare articles 13, 17 and 18 of the European*

*Code of Good Administrative Behaviour, and art. 41 EU Charter of Fundamental Rights.*

**Art. 41 EU Charter of Fundamental Rights**

1 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.

2 This right 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 every person to have access to his or her file, while respecting the legitimate interests of confidentiality and of professional and business secrecy;
- the obligation of the administration to give reasons for its decisions.

3 Every person has the right to have the Community make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.

4 Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

*Examples from the European Code of Good Administrative Behaviour: articles 16, 25 and 26.*

**c. Codification of parameters for the exercise of discretion**

In line with the search for predictability in adjudication, modern codifications of administrative procedure more and more often try and write down the principles applying to the exercise of discretion.

*Examples from the European Code of Good Administrative Behaviour: articles 4 to 11.*

**d. General codification and sector specific needs**

Codification of administrative procedure can either be general or sector specific (i.e. in a given policy field or for a given public sector organisation. *See above 3 a. for general principles*). In order to be effective and allow for predictability, codifications need to be very specific as to their personal and material scope of application, and indicate whether they may be supplemented by specific rules and if so, in which form. Foreseeing that an assessment of the codification is made from time to time by the legislator on the basis of information given by the relevant actors is recommended.

*Examples from the European Code of Good Administrative Behaviour: articles 1, 2, 3 and 27.*

Annex: the European Code of Good Administrative Behaviour  
([www.euro-ombudsman.eu.int/code/pdf/en/code2005\\_en.pdf](http://www.euro-ombudsman.eu.int/code/pdf/en/code2005_en.pdf))

**Article 1**

**General provision**

In their relations with the public, the Institutions and their officials shall respect the principles which are laid down in this Code of good administrative behaviour, hereafter referred to as “the Code”.

**Article 2**

**Personal scope of application**

1. The Code shall apply to all officials and other servants to whom the Staff Regulations and the Conditions of employment of other servants apply, in their relations with the public. Hereafter the term official refers to both the officials and the other servants.

2. The Institutions and their administrations will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for them, such as persons employed under private law contracts, experts on secondment from national civil services and trainees.

3. The public refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

4. For the purpose of this Code:

(a) the term “Institution” shall mean a Community institution or body;

(b) “Official” shall mean an official or other servant of the European Communities.

**Article 3**

**Material scope of application**

1. This Code contains the general principles of good administrative behaviour which apply to all relations of the Institutions and their administrations with the public, unless they are governed by specific provisions.

2. The principles set out in this Code do not apply to the relations between the Institution and its officials. Those relations are governed by the Staff Regulations.

**Article 4**

**Lawfulness**

The official shall act according to law and apply the rules and procedures laid down in Community legislation. The official shall in particular take care that decisions which affect the rights or interests of individuals have a basis

in law and that their content complies with the law.

**Article 5**

**Absence of discrimination**

1. In dealing with requests from the public and in taking decisions, the official shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in a similar manner.

2. If any difference in treatment is made, the official shall ensure that it is justified by the objective relevant features of the particular case.

3. The official shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

**Article 6**

**Proportionality**

1. When taking decisions, the official shall ensure that the measures taken are proportional to the aim pursued. The official shall in particular avoid restricting the rights of the citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation with the purpose of the action pursued.

2. When taking decisions, the official shall respect the fair balance between the interests of private persons and the general public interest.

**Article 7**

**Absence of abuse of power**

Powers shall be exercised solely for the purposes for which they have been conferred by the relevant provisions. The official shall in particular avoid using those powers for purposes which have no basis in the law or which are not motivated by any public interest.

**Article 8**

**Impartiality and independence**

1. The official shall be impartial and independent. The official shall abstain from any arbitrary action adversely affecting members of

the public, as well as from any preferential treatment on any grounds whatsoever.

2. The conduct of the official shall never be guided by personal, family or national interest or by political pressure. The official shall not take part in a decision in which he or she, or any close member of his or her family, has a financial interest.

#### **Article 9 Objectivity**

When taking decisions, the official shall take into consideration the relevant factors and give each of them its proper weight in the decision, whilst excluding any irrelevant element from consideration.

#### **Article 10 Legitimate expectations, consistency and advice**

1. The official shall be consistent in his own administrative behaviour as well as with the administrative action of the Institution. The official shall follow the Institution's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case; these grounds shall be recorded in writing.

2. The official shall respect the legitimate and reasonable expectations that members of the public have in the light of how the Institution has acted in the past.

3. The official shall, where necessary, advise the public on how a matter which comes within his or her remit is to be pursued and how to proceed in dealing with the matter.

#### **Article 11 Fairness**

The official shall act impartially, fairly and reasonably.

#### **Article 12 Courtesy**

1. The official shall be service-minded, correct, courteous and accessible in relations with the public. When answering correspondence, telephone calls and e-mails, the official shall try to be as helpful as possible and shall reply as completely and accurately as possible to questions which are asked.

2. If the official is not responsible for the matter concerned, he shall direct the citizen to the appropriate official.

3. If an error occurs which negatively affects the rights or interests of a member of the public, the

official shall apologise for it and endeavour to correct the negative effects resulting from his or her error in the most expedient way and inform the member of the public of any rights of appeal in accordance with Article 19 of the Code.

#### **Article 13**

##### **Reply to letters in the language of the citizen**

The official shall ensure that every citizen of the Union or any member of the public who writes to the Institution in one of the Treaty languages receives an answer in the same language. The same shall apply as far as possible to legal persons such as associations (NGOs) and companies.

#### **Article 14**

##### **Acknowledgement of receipt and indication of the competent official**

1. Every letter or complaint to the Institution shall receive an acknowledgement of receipt within a period of two weeks, except if a substantive reply can be sent within that period.

2. The reply or acknowledgement of receipt shall indicate the name and the telephone number of the official who is dealing with the matter, as well as the service to which he or she belongs.

3. No acknowledgement of receipt and no reply need be sent in cases where letters or complaints are abusive because of their excessive number or because of their repetitive or pointless character.

#### **Article 15**

##### **Obligation to transfer to the competent service of the Institution**

1. If a letter or a complaint to the Institution is addressed or transmitted to a Directorate General, Directorate or Unit which has no competence to deal with it, its services shall ensure that the file is transferred without delay to the competent service of the Institution.

2. The service which originally received the letter or complaint shall notify the author of this transfer and shall indicate the name and the telephone number of the official to whom the file has been passed.

3. The official shall alert the member of the public or organisation to any errors or omissions in documents and provide an opportunity to rectify them.

#### **Article 16**

##### **Right to be heard and to make statements**

1. In cases where the rights or interests of individuals are involved, the official shall ensure that, at every stage in the decision making procedure, the rights of defence are respected.
2. Every member of the public shall have the right, in cases where a decision affecting his rights or interests has to be taken, to submit written comments and, when needed, to present oral observations before the decision is taken.

#### **Article 17**

##### **Reasonable time-limit for taking decisions**

1. The official shall ensure that a decision on every request or complaint to the Institution is taken within a reasonable time-limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public and for answers to administrative notes which the official has sent to his superiors requesting instructions regarding the decisions to be taken.
2. If a request or a complaint to the Institution cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time-limit, the official shall inform the author thereof as soon as possible. In that case, a definitive decision should be notified to the author in the shortest time.

#### **Article 18**

##### **Duty to state the grounds of decisions**

1. Every decision of the Institution which may adversely affect the rights or interests of a private person shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision.
2. The official shall avoid making decisions which are based on brief or vague grounds or which do not contain individual reasoning.
3. If it is not possible, because of the large number of persons concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the official shall guarantee that he subsequently provides the citizen who expressly requests it with an individual reasoning.

#### **Article 19**

##### **Indication of the possibilities of appeal**

1. A decision of the Institution which may adversely affect the rights or interests of a private person shall contain an indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature

of the remedies, the bodies before which they can be exercised, as well as the time-limits for exercising them.

2. Decisions shall in particular refer to the possibility of judicial proceedings and complaints to the Ombudsman under the conditions specified in, respectively, Articles 230 and 195 of the Treaty establishing the European Community.

#### **Article 20**

##### **Notification of the decision**

1. The official shall ensure that decisions which affect the rights or interests of individual persons are notified in writing, as soon as the decision has been taken, to the person or persons concerned.
2. The official shall abstain from communicating the decision to other sources until the person or persons concerned have been informed.

#### **Article 21**

##### **Data protection**

1. The official who deals with personal data concerning a citizen shall respect the privacy and the integrity of the individual in accordance with the provisions of 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 data.
2. The official shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non authorised persons.

#### **Article 22**

##### **Requests for information**

1. The official shall, when he has responsibility for the matter concerned, provide members of the public with the information that they request. When appropriate, the official shall give advice on how to initiate an administrative procedure within his field of competence. The official shall take care that the information communicated is clear and understandable.
2. If an oral request for information is too complicated or too comprehensive to be dealt with, the official shall advise the person concerned to formulate his demand in writing.
3. If, because of its confidentiality, an official may not disclose the information requested, he or she shall, in accordance with Article 18 of this Code, indicate to the person concerned the

reasons why he cannot communicate the information.

4. Further to requests for information on matters for which he has no responsibility, the official shall direct the requester to the competent person and indicate his name and telephone number. Further to requests for information concerning another Community institution or body, the official shall direct the requester to that institution or body.

5. Where appropriate, the official shall, depending on the subject of the request, direct the person seeking information to the service of the Institution responsible for providing information to the public.

#### **Article 23**

##### **Requests for public access to documents**

1. The official shall deal with requests for access to documents in accordance with the rules adopted by the Institution and in accordance with the general principles and limits laid down in Regulation (EC) No 1049/20012.

2. If the official cannot comply with an oral request for access to documents, the citizen shall be advised to formulate it in writing.

#### **Article 24**

##### **Keeping of adequate records**

The Institution's departments shall keep adequate records of their incoming and outgoing mail, of the documents they receive, and of the measures they take.

#### **Article 25**

##### **Publicity for the Code**

1. The Institution shall take effective measures to inform the public of the rights they enjoy under this Code. If possible, it shall make the text available in electronic form on its website.

2. The Commission shall, on behalf of all institutions, publish and distribute the Code to citizens in the form of a brochure.

#### **Article 26**

##### **Right to complain to the European Ombudsman**

Any failure of an Institution or official to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.

#### **Article 27**

##### **Review of operation**

Each Institution shall review its implementation of the Code after two years of operation and shall inform the European Ombudsman of the results of its review.

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