

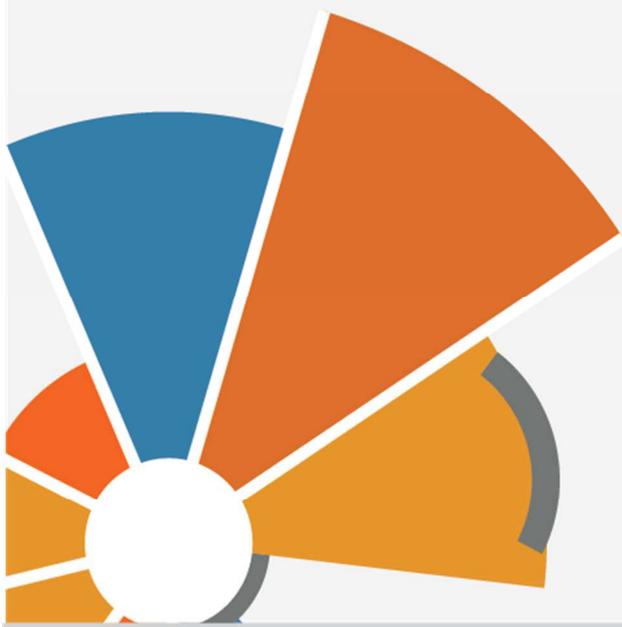


2018

Annual Conference of the
EUROPEAN GROUP FOR
PUBLIC ADMINISTRATION

LAUSANNE | SWITZERLAND | 5-7 SEPTEMBER 2018
PhD SYMPOSIUM | 3-4 SEPTEMBER 2018

CALL FOR PAPERS



EGPA Permanent Study Group X on: Law and Public Administration

Administrative Silence in Comparative European Law

CALL FOR PAPERS

Introduction

Law and Public administration is a permanent Study Group of the European Group of Public Administration in Brussels, active since 2005. It aims at fostering interdisciplinary study of the practice and theory of law in public administration, administrative science and policy on national and European (including EU) perspectives. The group wants to be a meeting place for scholars and practitioners from different fields: lawyers, sociologists, policy analysts, economists and IT experts, working in academia and public institutions, as well as civil servants working in national and supranational institutions and NGOs.

We combine academic and practice perspectives on public, especially administrative law, its functioning and its institutions in a public administration context. Therefore, we aim at legal scholars, policymakers and practitioners who take an interest in the well-functioning of public administration.

Projects & project proposals & publications

Papers presented and discussed at annual conferences have been peer reviewed and published in the last years in special issues of international journals: NALL (2016), International Public Administration Review (2014), Transylvanian Review of Administrative Sciences (2009), Utrecht Law Review (2013), and we have published and pursue ongoing preparation of scientific monographs (Springer, Palgrave Macmillan). We strive to offer every year new publication opportunities.

Participants are welcome to propose new projects for research and training and to recruit participants in the study group. So far, the Study group has initiated projects on transparency and freedom of information (edited book *The Laws of Transparency in Action: A European Perspective*; Palgrave Macmillan, forthcoming 2018), effective appeals and alternative dispute resolution in administrative law (see edited book *Alternative Dispute Resolution in European Administrative Law*, 2014, <http://www.springer.com/la/book/9783642349454>), etc. These projects will continue and will lead to joint activities and, eventually, joint publications. Study

Group members do apply regularly for research grants or visiting scholarships within the study-groups' network.

For the 2018 and further, 2019 EGPA conference, we invite scholars and practitioners to participate in research proposal on **Administrative Silence in Comparative European Law**.

Administrative silence occurs when administrative authority does not reply to an application in the legally prescribed time or does not take action when such action is legally prescribed. The legal fiction may be negative or positive. Negative fiction means that the law considers the silence as tacit rejection of the application and the interested parties have the possibility of a legal challenge in administrative or judicial venues. In the second instance, positive fiction, the presumption is that the silence means approval (the silent consent procedure or tacit agreement). The application is considered approved and the applicant can perform an activity.

No legal system is exclusively working with just one of the legal assumptions. Both negative and positive assumptions are used, with different legal consequences. At the European level several initiatives were adopted that mainly address the issue of administrative silence by principally enacting positive fiction – see Directive 2006/123/EC on services in the internal market, a certain source of Europeanisation of national legal systems as well. Our proposal is to comparatively discuss national profiles as conference papers at the 2018 EGPA conference in Lausanne, addressing the following research questions from a legal and empirical perspective:

1. The legal and administrative context:
 - a. The distribution of administrative competence within the legal-administrative tradition of the country.
 - b. Broader social/cultural context of understanding timeliness of administrative procedure – if the case.
 - c. The main principles of administrative law regarding timeliness of administrative procedures.
2. Regarding the deadlines:
 - a. What is the length of deadlines in general law and in special laws? Possibilities of prolongation.
 - b. Is administrative silence restricted to procedures based on application or also for ex officio? Deadlines at first v. deadlines in administrative appeal, extraordinary and enforcement proceedings.
 - c. Legal character of prescribed deadlines (instructive/preclusions). Reasonable deadlines.
 - d. Counting deadlines: when does a proceeding begin and what are rules about deadlines' expiry?
 - e. Empirical evidence: Data on average deadlines in practice of various procedures (building permits, tax, social benefits, etc.). If no data available, conduct interviews with relevant officials, etc.
 - f. Supervision of the timeliness: administrative control, judicial review, etc. Responsibility for backlogs. Does the law prescribe sanctions? What type of sanctions? Data available / interviews.

3. Legal framework of administrative silence:
 - a. The regulation: constitutional basis (if applicable), Administrative Procedure Act or other general laws, sector-specific legislation (special laws).
 - b. Specific regimes in the fields of environment and entrepreneurship.
 - c. National doctrine on the administrative silence. Advantages and side effects of model in each country.
4. Responses to administrative silence:
 - a. The prevailing model: positive or negative. Legal consequences/fictions. Finality and enforceability.
 - b. Legal remedies. Administrative v. judicial protection/enforceability. Right to compensation.
 - c. Empirical evidences: Data on usage of legal remedies and actions to courts in practice and case law. Data on officials and authorities' heads being held accountable for delays.
 - d. Governmental strategies, actions and effects of tackling excessive length of procedures. Role of the Ombudsman – if applicable.
 - e. The EU influence over national rules and practices.
5. Overall assessment of the rules and practices around administrative silence:
 - a. Law by the book – the regulation and its legal challenges.
 - b. Law in action – the practice of administrative inactivity.

The main research sources are to be normative acts, white papers, inter/national literature overview, national statistics, case law, surveys and interviews (with law drafters, officials, judges). Each sub-topic should be addressed from both regulatory and empirical perspective.

Call for papers

The study group is **beside the project proposal above on administrative silence interested in all subjects of (European and Public) law and public administration**. We especially ask for papers on one of the following subjects:

- ✓ Europeanization and modernization of administrative procedures with special regard to the notion of Good Administration; in particular rights of defense and administrative simplifications.
- ✓ Transparency; legal and empirical insights into the practice of freedom of information - national, regional and comparative legal perspectives; etc.
- ✓ Effective adjudication in proceedings against the administration and alternative dispute resolution in administrative law: administrative appeals, mediation in administrative law.
- ✓ European integration tendencies in transnational law enforcement.
- ✓ Administrative Law general and selected issues: national, European, comparative.

Key Deadlines

- ✓ Proposals should be uploaded through the submission website by April 18,2018
- ✓ Deadline for decision and selection of the accepted papers by the co-chairs: and notification to the Authors : May 9, 2018
- ✓ Deadline for submitting the complete papers: August16, 2018

Practicalities

Please submit your abstract online through the Conference Website www.egpa-conference2018.org or directly through Conference Management System: <https://www.conftool.com/egpa2018>

Practical information on the EGPA 2018 conference can be found at:

www.egpa-conference2018.org

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EGPA Policy Paper on European Governance – Please note that all authors with accepted papers can submit a proposal for an EGPA Policy Paper. For more information, please contact Dr. Fabienne Maron