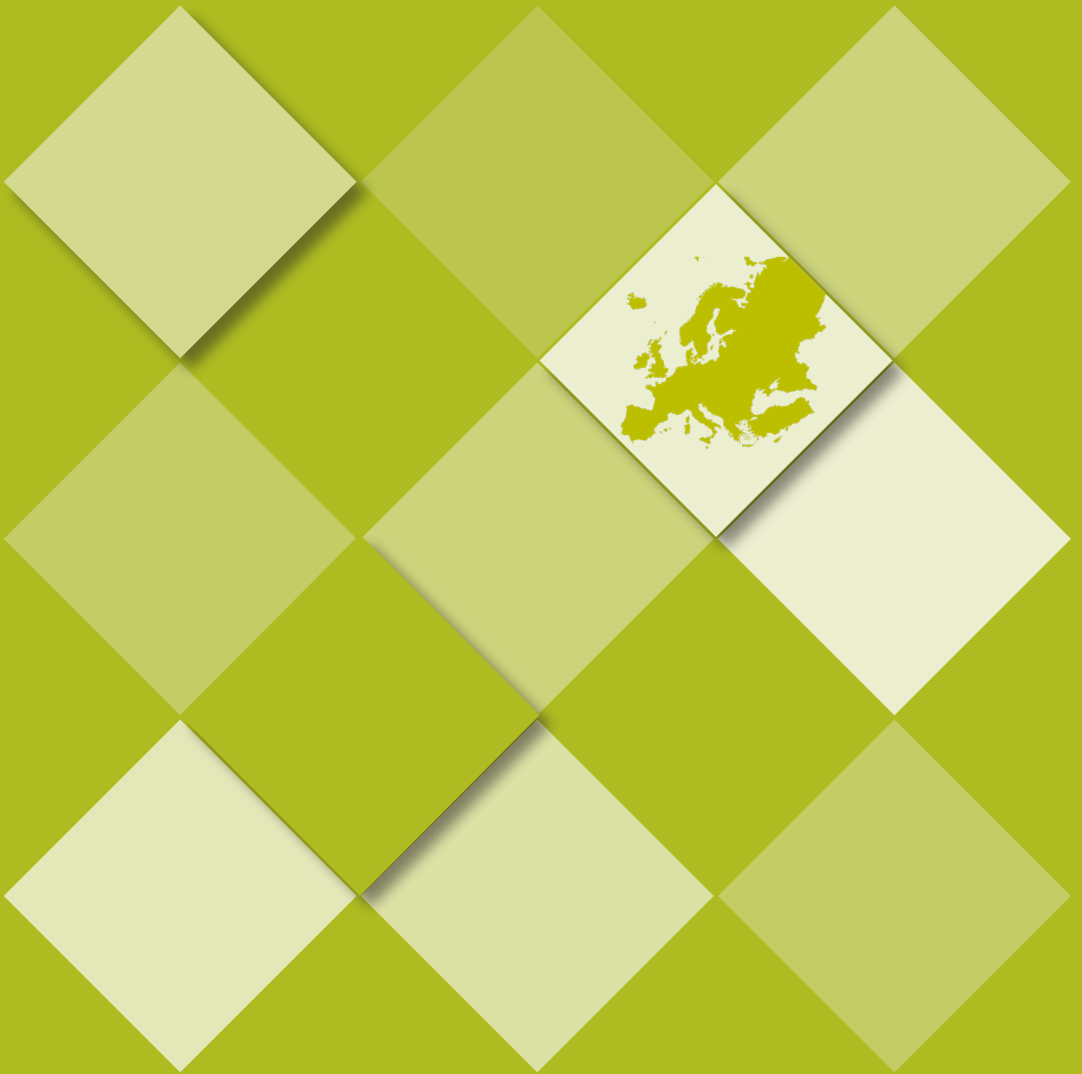


# Good administration in European countries





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## Summary

Citizens' right to good administration is a cornerstone of the European understanding of rule of law, yet scientists have debated on what these rights actually entail. The purpose of this study is to examine how governments and state organisations across Europe work to promote basic values enshrined in good administration and, in turn, provide useful knowledge on this topic to practitioners in European states.

### **Common European principles guide the countries' basic values**

European sources of good administration can be found in Article 41 of the European Charter of Fundamental Rights, the European Code of Good Administrative behaviour as well as a Council of Europe recommendation to Member States in which principles of good administration are listed. Academic discourse has shed light on the fact that the practical effect of the European guiding legal sources is inconsistent, with national variance on how the concept "good administration" is interpreted and applied in practice.

In our study, we show that the fundamental principles found in European guiding sources are also the most prominent when looking at the principles articulated in guiding documents for public administrations in European states. Most states value legality, proportionality, impartiality, high quality of service, non-discrimination and democratic legitimacy as fundamental principles that guide their public administrations. The states that were studied do, however, differ in their views on whether these principles should be applied mainly in internal practices of their public administrations or generally in their dealings with the public.

Our study also shows that basic values are often derived from law in European countries. In most of the countries studied, basic values are derived from provisions in the constitution, while a significant number derived basic values from other laws. In our study, only a minority of the countries stated that basic values were not derived from law, and were only stipulated in codes of conduct, codes of ethics or similar documents. Our

study also showed that there is a level of common European influence regarding the origin of the basic values that guide public administrations in European countries. For several countries, membership of the European Union has guided the formation of basic values.

### **Institutions work together to promote basic values in most countries**

Most of the countries in our study have institutions responsible for promoting basic values. Our study also shows that in most countries there is more than one institution and that these institutions cooperate on this matter. In a majority of the countries, a governmental ministry is involved in the work. This involvement is sometimes direct, for instance through the existence of a specific unit responsible for promoting basic values in the public administration. In cases where ministries are involved in the work indirectly, they mainly perform legislative activities. Half of the countries that we studied also have a government body other than the ministries entrusted with promoting ethics and basic values in their public administrations. Four of the countries also employ ethics commissioners in all state bodies; i.e. employees of state bodies specially tasked with promoting basic values in their organisations.

### **Countries apply a mix of rules-based and values-based tools to promote basic values**

Countries can apply either rules-based or values-based tools in their values promotion activities. Rules-based tools emphasise compliance and tend to be top-down. Values-based tools encourage self-regulation and each person striving to tune his or her ethical compass. The countries featured in our study apply a mix of tools in their efforts to promote basic values in their public administrations. The most common tools are training and counselling, followed by workshops and publications. Other tools seek to emphasise the role of managers in values promotion. Some countries also have dedicated websites for this purpose while some gather public servants together in networks or for theme days. The material made available to us in this study did not provide enough information to enable values promotion tools to be categorised as rules-based or values based.

Our study did, however, find that the monitoring and enforcing mechanisms used by the countries are mainly rules-based. Several of the countries in our study do not employ any monitoring mechanisms to gain knowledge on civil servants' adherence to basic values. Those countries that do monitor adherence to basic values point to various supervisory mechanisms. Only a minority of the countries mentioned softer forms of monitoring, such as dilemma exercises and self-assessment.

### **There are known obstacles to values promotion**

Our study shows that a minority of the studied countries have evaluated their values promotion activities. Those countries that do have an insight into the effectiveness of their efforts to promote basic values point to the following challenges when it comes to values promotion in their public administrations.

- 
- Public administrations tend to work in silos, following a certain set of values linked to their own organisational missions. Such values can compete with a more universal set of values for the whole administration.
  - There is also the possibility of subjectivity when civil servants are to interpret and apply basic values in practice.
  - It can also be hard to reach all individuals who need to receive information on basic values, including contractual employees and recurring consultants.
  - Many organisations fail in giving values promotion priority, often due to a lack of time and resources.
- 

### **The way forward is to combine structure and culture**

Our study concludes with a discussion of the way forward. We argue that basic values promotion is at its most efficient when structure (laws, rules and guiding documents) is balanced with culture (how civil servants work together to uphold basic values). Governments in European countries can take concrete measures to promote a good administrative culture and ensure that basic values are institutionalised in all state bodies. The measures comprise the following insights:

- 
- Employees of an organisation, from managers to co-workers, must have a common understanding of their organisation's mission.
  - The management of an organisation is ultimately responsible for the internal policy documents, to ensure that the operations are conducted efficiently, effectively and in accordance with applicable law.
  - A good administrative culture must be an integral part of the leadership, for instance by letting employees be involved in the development of their organisation.
  - Education and continuing training are key to ensure that all co-workers have an understanding of the statutory requirements of an organisation and the role of a government employee.
- 

Responsibility rests at several levels when it comes to ensuring that public administrations are guided by a good administrative culture. We argue that political will is essential to signal the importance of basic values and adherence to them. State organisations serve as anchors for continuity and provide the setting for strategic documents and plans. Lastly, and perhaps most importantly, civil servants at all levels have a responsibility to make basic values serve as a compass for every action taken in their everyday working lives.



## Sammanfattning

Medborgarnas rätt till en god förvaltning är en grundbult i den europeiska rättsstaten. Men det har funnits mycket diskussion bland forskare om vad denna rätt faktiskt innebär. Syftet med denna studie är att undersöka hur regeringar och statliga organisationer i Europa arbetar för att främja grundläggande värden som förknippas med en god förvaltning och i förlängningen tillhandahålla kunskap om detta till praktiker i europeiska länder i denna fråga.

### Gemensamma europeiska principer vägleder ländernas grundläggande värden

De europeiska källor som beskriver god förvaltning är artikel 41 av Europeiska unionens stadga om de grundläggande rättigheterna, den europeiska kodexen för god förvaltningssed och en rekommendation från Europarådet där rådet listar principer om god förvaltning. Forskare har återkommande lyft fram att den praktiska effekten av de europeiska vägledande rättsliga källorna spretar. Det har lett till att länder tolkar och tillämpar konceptet god förvaltning på olika sätt.

Vår studie visar att de grundläggande principerna som finns i europeiska vägledande källor också är de som framträder mest i de grundläggande värden som har formulerats i dokument som styr statsförvaltningar i Europa. De flesta länder värderar legalitet, proportionalitet, opartiskhet, service, icke-diskriminering och demokratisk legitimitet som grundläggande värden som vägleder deras statsförvaltningar. Länderna skiljer sig däremot åt i hur de ser på om statsförvaltningarna bör tillämpa dessa principer främst i den interna verksamheten eller främst generellt i kontakter med allmänheten.

Vår studie visar också att europeiska länders statsförvaltningar ofta hämtar sina grundläggande värden från lagstiftningen. I de flesta av de studerade länderna kommer de grundläggande värdena från bestämmelser i grundlagen, men en betydande andel kommer från andra lagar. I vår studie är det en minoritet av länderna som anger att de grundläggande värderingarna

endast beskrivs i uppförandekoder, etiska regler eller liknande dokument. Vi kan också se att det finns ett gemensamt europeiskt inflytande på ländernas grundläggande värden. Medlemskap i Europeiska unionen har påverkat hur flera länder har formulerat sina grundläggande värden i hög utsträckning.

### **Institutioner samarbetar för att främja grundläggande värden i de flesta länder**

De flesta av länderna i vår studie har institutioner som ansvarar för att främja grundläggande värden. Vår studie visar också att flera institutioner samverkar i detta syfte i de flesta länder. I en majoritet av länderna är ett av regeringens departement inblandat i arbetet. Ibland är departementet direkt inblandad, till exempel genom att en särskild enhet på departementet arbetar praktiskt med att främja de grundläggande värdena. I de fall där departementen är inblandade indirekt har de i stället ansvar för att lagstifta inom området. Hälften av länderna som vi har studerat har också särskilda statliga organisationer som arbetar för att främja etik och grundläggande värden i sina statsförvaltningar. I fyra av länderna finns det etikansvariga i samtliga statliga organisationer, det vill säga anställda som ansvarar för att främja grundläggande värden på sina arbetsplatser.

### **Länder använder sig av både regelbaserade och värdebaserade verktyg**

Länder kan använda sig av antingen regelbaserade eller värdebaserade verktyg för att främja grundläggande värden. Regelbaserade verktyg fokuserar på att statsförvaltningen ska följa regler och tenderar att ha ett uppifrån och ner-perspektiv. Värdebaserade verktyg uppmuntrar i stället självreglering och att varje person ska sträva efter att förbättra sitt etiska förhållningssätt. De länder som ingår i vår studie använder en kombination av verktyg för att främja grundläggande värden i sina statsförvaltningar. De vanligaste verktygen är utbildning och rådgivning, följt av workshoppar och publikationer. Ett annat verktyg är att ledare på olika sätt uppmärksammas på sin roll i arbetet med att främja grundläggande värden. Vissa länder informerar om värdena på särskilda webbplatser medan vissa samlar statstjänstemän till nätverksträffar och temadagar. Vi har inte fått tillräckligt med information om de olika verktygen för att kunna kategorisera dem som antingen regel- eller värdebaserade.

Däremot visar studien att länder använder sig av främst regelbaserade verktyg för att följa upp och genomdriva att förvaltningarna arbetar enligt de grundläggande värdena. Många länder i vår studie följer överhuvudtaget inte upp hur statstjänstemännen lever upp till grundläggande värden. De länder som faktiskt följer upp detta använder ofta olika typer av övervakning. Det är bara en minoritet av länderna som använder sig av någon mjukare form av uppföljning, som dilemmaövningar och självvärdering.

### **Det finns kända hinder för arbetet med att främja grundläggande värden**

Vår studie visar att en minoritet av de studerade länderna har utvärderat de aktiviteter som de genomför för att främja grundläggande värderingar. Men de länder som vet hur effektivt deras arbete har varit pekar på följande utmaningar:

- 
- Statsförvaltningar tenderar att arbeta i stuprör och följa vissa värden som är kopplade till de enskilda organisationernas verksamhet. Sådana värden kan konkurrera med mer generella värden för hela statsförvaltningen.
  - Statstjänstemän riskerar att vara subjektiva när de ska tolka och tillämpa grundläggande värden i praktiken.
  - Det kan vara svårt att nå alla individer som behöver kunskap om grundläggande värden. Denna grupp omfattar även anställda med korta kontrakt och återkommande konsulter.
  - Många organisationer misslyckas med att prioritera arbete för att främja grundläggande värden, ofta på grund av brist på tid och resurser.
- 

### **Vägen framåt är att kombinera struktur och kultur**

Vi bedömer att det är som mest effektivt att främja grundläggande värden när strukturen (lagar, regler och styrande dokument) är balanserad med kulturen (hur statstjänstemän samarbetar för att upprätthålla grundläggande värden). Regeringar i europeiska länder kan vidta konkreta åtgärder för att främja en god förvaltningskultur och för att se till att alla statliga organisationer i respektive land institutionaliserar de grundläggande värdena. Åtgärderna grundar sig i följande insikter:

- 
- Anställda i en organisation, från ledare till medarbetare, måste ha en gemensam förståelse för organisationens uppdrag.
  - Ledare är ytterst ansvariga för de interna styrdokument, bland annat för att verksamheten ska bedrivas effektivt och enligt de lagar och regler som gäller.
  - En god förvaltningskultur måste vara en integrerad del av ledarskapet, bland annat genom att medarbetare ges möjlighet att vara inblandade i verksamhetens utveckling.
  - Utbildning och fortbildning är avgörande för att alla medarbetare ska förstå lagstiftningens krav på myndigheter och på rollen som statsanställd.
- 

Ansvar för att se till att statsförvaltningar har en god förvaltningskultur ligger på flera nivåer. Vi anser att den politiska viljan är grundläggande för att signalera hur viktiga de grundläggande värdena är och hur viktigt det är att följa dem. Statliga organisationer fungerar som ankare för kontinuitet genom att de ger plats åt strategiska dokument och planer som möjliggör en god förvaltningskultur. Statstjänstemän på alla nivåer har slutligen ett ansvar för att använda de grundläggande värdena som en kompass som vägleder varje steg i deras dagliga arbetsliv.

# 1 Introduction

Public administration at all levels has a significant impact on everyone's lives. The principle of citizens' rights to good administration therefore becomes indispensable to ensure the rule of law, that rights of citizens are well-defended, and that welfare and public services are provided fairly and efficiently. Good administration is an ideal, in the sense that it should encompass all of the above. But it can equally be seen as a utopia.<sup>1</sup> The principles and values of good administration need to be translated into practice to fulfil their democratic purposes.

This introductory chapter aims to set out the purposes of this study and to provide definitions of and perspectives on good administration, and its connections to similar concepts.

## Purposes of the study

This study was written in preparation for the Swedish presidency of the Council of the European Union and EUPAN (the European Public Administration Network). The topic of good administration is relevant to the two agencies<sup>2</sup> that represent Sweden in EUPAN and to the network itself. The topic thus constitutes one of the central areas of interest for the activities during the presidency and the study is intended to serve as a basis for knowledge sharing among member states of EUPAN.

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<sup>1</sup> As argued by Lena Marcusson, Marcusson, L. (ed.) (2006). *God förvaltning: ideal och praktik*. Uppsala: Iustus.

<sup>2</sup> Sweden is represented in EUPAN by the Swedish Agency for Government Employers and the Swedish Agency for Public Management.

The purpose of the study is to examine how governments and state organisations in EUPAN member states work to promote basic values enshrined in a good administration. We ask the following questions:

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- Has the concept of good administration been applied in the national law of the EUPAN member states or is the concept used in any another way?
  - What basic values associated with good administration do governments and state organisations seek to promote in their public administrations?
  - How do governments of the EUPAN member states work to ensure compliance with these basic values within their public administrations?
- 

With the second and third question we seek to draw attention to *administrative culture* and the way in which the values and principles of good administration are diffused and become institutionalised and embedded within national systems. The cultural perspective entails the role of leadership and employeeship as well as the tools and practices to foster a common understanding of values within organisations. The study will to this end be distinguished in two integrated parts, (1) the concept of good administration and national application, and (2) the promotion of values and practices.

### **Outline of this study**

The first chapter serves as an introduction to the concept of good administration and its European guiding legal sources. We also briefly explore how the concepts is applied in national public administrations. In chapter two we describe the values associated with good administration in European countries and discuss how these values may reflect the degree of inward and outward orientation of a public administration. In chapter three, we describe how basic values are codified in European countries. Chapter four contains an overview of the instruments European governments use to promote basic values. Lastly, in chapter five we summarise the study with our conclusions and a discussion on the way forward.

## **Empirical material and selection**

A survey based on mainly open-ended questions was constructed to facilitate a thorough understanding of each member state. The survey was sent to all 34 members of EUPAN. A total of 24 survey responses were received between the end of October and the end of November 2022 when the survey was closed for submissions.

Based on the answers received, five countries were chosen for follow-up interviews to gain a greater insight into certain aspects of their answers. These were Belgium, Croatia, Estonia, Luxembourg, and Portugal. In selecting these interview candidates, we also took length of membership and geographical dispersion into account to ensure a diverse representation. We also interviewed representatives of the Directorate-General for Human Resources and Security of the European Commission (DG HR), in order to ensure representation of the Commission as a member of EUPAN in the study.

## **What is good administration?**

The public administrations of states are the main interface between the state and individuals. Each and every European state strives to provide its citizens with high-quality public services, and this is crucial to protecting citizens' basic rights and freedoms. In order to achieve high-quality services, there is need for a framework of values that makes citizens rights-holders. However, formulating such values and putting them into effect is no easy task.

Seeing that there is some ambiguity as to the meaning of the concept good administration, this chapter aims to provide an expansive definition of the concept of good administration. We discuss the legal provisions of the concept in terms of rights, as well as the principles and values that may constitute a good administration.

## **European sources of good administration**

European sources of good administration can be found at several places, with varying degree of legal prowess. Since the introduction of the Lisbon treaty, the right to good administration is found under Article 41 in the Charter of Fundamental Rights of the European Union as an integrated part of the treaty base.

*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.*

The principles include the right of every person to be heard, the right of every person to have access to his or her file, and the obligation of the administration to give reasons for its decisions.<sup>3</sup> Other rights in the charter are also closely connected to those of Article 41, such as *equality* which includes principles against discrimination and respect for religious, cultural, and linguistic diversity. Also closely connected to Article 41 is the right to an effective remedy and a fair trial, as stipulated in Article 47 of the charter.

Article 41 applies to European institutions and not to member states of the EU. However, the Court of Justice of the European Union has stated that general principles that the article is built upon do apply to individual member states.

**Box 1. Turning the right to good administration into practice – the example of the European Commission**

Our interview with representatives of DG HR served to gain insight into how the Commission has turned the provisions of Article 41 into practice. Each of the provisions in the article is operationalised in internal regulations as follows:

*Impartiality* is ensured via specific provisions in the Staff Regulations and implementing rules regarding conflicts of interest. These include the requirement for ad hoc notification of conflicts of interest which could impair the impartiality of staff, a check of possible conflicts of interests before recruitment and upon return from a period of leave on personal grounds, rules governing the acceptance of gifts, hospitality and favours, the declaration of professional activities carried out by spouses or partners

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<sup>3</sup> Other principles are the right of every person to have the EU make good any damage caused by its institutions and the right of every person to write to the institutions of the Union in one of the languages of the Treaties.



of staff and the requirement to seek prior authorisation for any external activities and to notify post-service activities.

*The right of every person to be heard*, before any individual measure which would affect him or her adversely is taken: The Code of Good Administrative Behaviour of the European Commission lays down clear rules on information on the rights of interested parties. This primarily involves listening to all parties with a direct interest. More specifically where Union law provides that interested parties should be heard, staff shall ensure that an opportunity is given to them to make their views known.

*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. In this regard it can be mentioned that the Commission's "Transparency Portal" acts as a single window to the wide range of instruments developed over recent years to facilitate access to information and improve citizens' ability to exercise their rights.

*The obligation of the administration to give reasons for its decisions*: The Code of Good Administrative Behaviour lays down that any Commission decision should clearly state the reasons on which it is based and should be communicated to the persons and parties concerned. As a general rule full justification for decisions should be given. However, where this may not be possible to communicate the grounds of individual decisions in detail, for example because of the large number of persons concerned by similar decisions, standard replies may be given. These standard replies should include the principal reasons justifying the decision taken. Furthermore, an interested party who expressly requests a detailed justification shall be provided with it.

### ***The European Code of Good Administrative Behaviour***

The code was developed by the European Ombudsman and approved by the European Parliament already in 2001. It serves as a model for EU institutions when developing their own codes, such as the Code of Good Administrative Behaviour of the European Commission.

Five principles of public service are listed in the European Code of Good Administrative Behaviour:

- 
- Commitment to the European Union and its citizens
  - Integrity
  - Objectivity
  - Respect for others
  - Transparency
- 

These principles should help public servants to understand and apply principles in a correct manner and give effect to the Union rights conferred on citizens. The Code and additionally the role of the Ombudsman are also to ensure good administration within the European administrative bodies as well as facilitate accessible and efficient channels for citizens to make claims against acts of maladministration.

The code in addition stipulates substantive provisions under 27 articles including:

- 
- Lawfulness
  - Non-discrimination
  - Proportionality
  - Impartiality
  - Objectivity
  - Timeliness
- 

It also includes several service-related provisions, for example, courtesy, good advice and respect for the expectations of the public and ensuring replies in the language of the recipient.<sup>4</sup>

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<sup>4</sup> For full list of provisions, see *The European Code of Good Administrative Behaviour*. European Ombudsman, 2015.

Although the code primarily applies to the European institutions and its administrative bodies, good administration has been a general principle of EU law since the inception of the Lisbon Treaty<sup>5</sup> and therefore also has a binding effect on member states in dealing with matters within the scope of EU law.

### **Other sources**

In 2007, the Council of Europe issued a recommendation to all Member States (CM/Rec (2007)7) with the purpose of bringing disparate standards of good administration together into one concept, a *model code*. The use of a single code was deemed to be an effective way of increasing assurance that standards were being implemented into national legal orders and that fundamental rights were being upheld.<sup>6</sup>

The recommendation of the Council of Europe specifies principles of good administration as lawfulness, equality, impartiality, proportionality, legal certainty, timeliness, participation, privacy and transparency. The recommendation is directed at public authorities at all levels in their dealings with private persons<sup>7</sup>. Further guidance on the rights to good administration is found in:

- 
- the Council of Europe handbook “*The administration and you: Principles of administrative law concerning relations between individuals and public authorities*”.
  - *Resolution (77)31 of the Committee of Ministers of the Council of Europe on the protection of the individual in relation to the acts of administrative authorities*.
  - case law of the ECtHR.
- 

<sup>5</sup> The principle of good administration was developed within the practice of the ECJ since mid-1980. The principles *right to heard*, *access to information*, and *statement of reasons* were upon until the proclamation of the Charter of Fundamental Rights of the European Union in year 2000 stated independently. Good administration gained full legal effect with the Lisbon treaty in 2009.

<sup>6</sup> Andrijauskaitė, A. & Stelkens, U., *Good Administration and the Council of Europe: Law, Principles, and Effectiveness*, Oxford University Press, 2020, pp. 45–47.

<sup>7</sup> Council of Europe: Committee of Ministers, Recommendation CM/Rec(2007)7 of the Committee of Ministers to member states on good administration, adopted by the Committee of Ministers on 20 June 2007, 20 June 2007.

Although these sources are diverse, some scholars see them as a “coherent whole” that aims to provide a scope and ensure a public administration that is democratically legitimised, open, transparent, and respecting of the rule of law.<sup>8</sup>

### **Values and principles of good administration are essential for “good governance”**

The principles of *good governance* are in many ways similar to those of good administration and the concepts are sometimes used interchangeably. The most important distinction between the two is that good administration is the operative component that facilitates the principles of good governance.

The principles of good governance can be seen as the following:<sup>9</sup>

- 
- Accountability
  - Transparency
  - Responsiveness
  - Equality and inclusiveness
  - Effectiveness and efficiency
  - Rule of law
  - Participation
  - Consensus orientation
- 

Good governance in other words stipulates *what* should be delivered and good administration *how* citizens are satisfied or become rightsholders.<sup>10</sup> As public administrations constitute the primary interface between the state and citizens it is important to implement a practically oriented framework

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<sup>8</sup> Andrijauskaitė, A. & Stelkens, U., *Good Administration and the Council of Europe: Law, Principles, and Effectiveness*, Oxford University Press, 2020, pp. 53–54.

<sup>9</sup> European Commission. (2017). *Quality of public administration: A toolbox for practitioners*.

<sup>10</sup> Ursoiu, N. R. (2011). *Good Administration Quo Vadis: Legality Or Efficiency?*. Faculty of Law, Uppsala university.

of good administration that translates the principles and values of democracy and rule of law, as it is through this interface that citizens become beneficiaries of the enshrined rights.

Good governance therefore requires good administration. Values and principles shape, enable and constrain the behaviour of the public administrations. They function as ethical guidelines, creating a commitment to a democratic focus as well as endurance when the political environment changes.

### **The European framework for good administration is fragmented**

The current European framework of good administration is fragmented and varies across Member states. The spread of the principles and values of good administration can be attributed to the interactions between agencies and authorities at EU and national level, as well as the informal externalisation of EU law and principles through the Brussels effect, i.e. the “pull” of the market, the political and, to some degree, the normative power possessed by the EU.<sup>11</sup>

Good administration is therefore not an exclusively European concept, nor is there one coherent or unambiguous definition of the concept. Each and every legal order has its own version, as will be presented in the subsequent chapters. Discussing good administration at both a national and European level and the interplay between them is important to understand of the concept. The rights and principles stipulated in the treaty base are not directly applicable, in terms of administrative and procedural rules, on national legal orders and member states are thus given significant freedom of application. However, when applying European law, member states are obliged to adhere to the European legal principles, which includes the principle of good administration. This is normally a functioning system where the national principles apply when European law is practised within the legal order of the member states.<sup>12</sup>

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<sup>11</sup> Reichel, J. (2022). *God förvaltning som rättstatsideal: hur kan principen realiseras inom EU:s sammansatta förvaltning?* In The Swedish Agency for Public Management, Rättsstaten i den svenska förvaltningen. En forskningsantologi., p. 54. See also Bradford, A. (2020). *The Brussels Effect – How the European Union Rules the World*.

<sup>12</sup> Ibid. p.51.

## **The challenge of giving effect to the right to good administration within the EU administration**

The practical effect of the provisions stipulated in the European legal sources is inconsistent in its application within the EU administration. Leino, among others, raises concerns over the ‘fuzziness’ of Article 41 and its lack of enforceable rules and detailed rights conferred on citizens. This concern is substantiated by the fact that most citizens that have sought to enforce their rights in accordance with Article 41 have lost their cases, in part due to the lack of legal language available to citizens. The European Parliament and the European Ombudsman have advocated for “more law” as a solution to the weaknesses of conferring fundamental rights on European citizens. It is thus implied that the current legal framework functions as a soft tool, rather than hard law.<sup>13 14</sup>

In the literature there are several perspectives on soft and hard law to take into consideration. On the one hand, more law at the European level could help resolve the current “patchwork” of provisions, as well as provide clearer codifications and rules. This view holds that rights and principles would thus be applied more stringently both at the European and national level. More law, in addition, is effective in influencing everyday institutional practices, as the external control increases. On the other hand, more law is rarely considered to be the solution for improved practices. Some point to the risks of overwhelming civil servants, prompting mistake-minimising behaviour or evasion, loss of efficiency both in the provision of services and decision-making, as well as limiting of the opportunity for innovation within public administrations.<sup>15</sup> Conversely, *soft law* or *soft tools* may be beneficial for sustainable normative and cultural change within public administrations but provide less formal enforcement of citizen rights. Leino argues that there is no need to choose between the options, an efficient and citizen-centred administration can be achieved

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<sup>13</sup> Leino, P. (2014). Efficiency, citizens and administrative culture. The politics of good administration in the EU. *European Public Law*, 20(4)., pp. 681–710.

<sup>14</sup> See also, Fortsakis, T. (2005) Principles Governing Good Administration, *European Public Law*, 11(2).

<sup>15</sup> Addink, H. (2019). *Good governance: Concept and context*. Oxford University Press., p. 42.

through a good balance.<sup>16</sup> The balance sought after is thus one that consists of a sufficiently strong *structure* of law and rules combined with softer modes of *values-based* promotion to embed the principles and values of good administration into each organisation.

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<sup>16</sup> Leino, P. (2014). *Efficiency, citizens and administrative culture. The politics of good administration in the EU.*





## 2 Values associated with good administration in European countries

In this chapter, we present the principles and values of good administration found in our survey. It serves to reflect the national adaptations and interpretations of good administration, both in terms of rights and administrative behaviour, and how they relate to the European sources outlined in the previous chapter. A short section on how the answers were analysed is followed by an overview of the values. We conclude by summarising reflections on the variance between countries within the network.

### The European fundamental principles of good administration are the most prominent

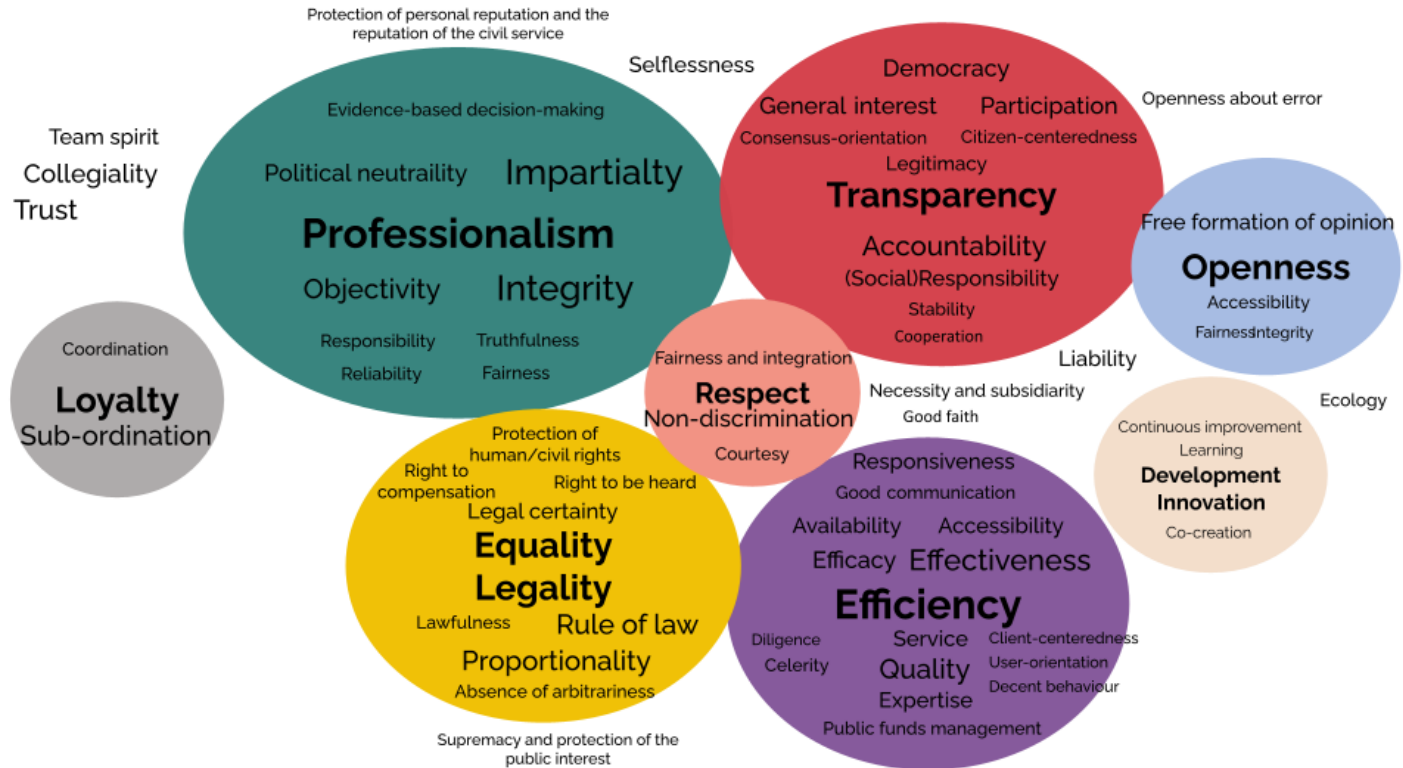
In our survey among EUPAN member states we asked what basic values are associated with good administration in each respondent's country. The results are summarised in the figures below. The principles and values of good administration derived from the survey answers have been clustered to provide a picture of the frequency and spread. *Legality, equality, proportionality* and *rule of law* have been coded within the same cluster, for instance. The frequency of occurrence of principles and values were also noted within each cluster to distinguish the commonly shared values.

The most frequently occurring principles and values are presented in larger size and vice versa.<sup>17</sup> The figure also shows clusters of principles that are particular to certain states and thus deviates from more general patterns. Some principles and values are “free” as they neither constitute a cluster in themselves nor fit within existing clusters.

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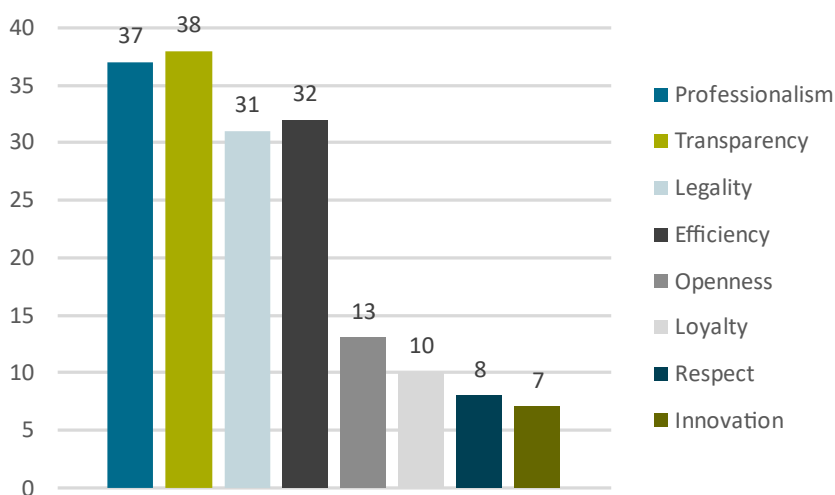
<sup>17</sup> Note that clusters are titled by the most prominent principle(s). Other principles within the same cluster should not be interpreted as subcategories.

Figure 1. Values associated with good administration in European countries.



As exemplified by the circles in the figure, almost all answers gave expression, to a varying degree, to the central principles and values of the Charter of Fundamental Rights, the Code of Good Administrative behaviour, and the principles set out by the Council of Europe; *legality, equality, proportionality, lawfulness, impartiality, transparency, high quality of service, non-discrimination and democratic legitimacy*. The most prominent and recurring principles cited were those relating to legality, transparency, impartiality, and efficiency and service, although often formulated in different terms but carrying similar meaning.

**Figure 2. Frequency of principles by category (n=24).**



Source: EUPAN survey from Sweden (2022).

### **Legality**

Legality and equality are the most frequent principles, as shown in the figure. The concept of legality contains many components within the European sources of good administration, and these are also expressed in the survey results. *Proportionality* and *the rule of law* are the most common answers after legality and equality. *The right to be heard, the right to compensation* and *lawfulness* also appears in the answers. Some countries provide more exhaustive lists of principles connected to legality than others, i.e. more than one of the above, while some provide none.

These principles are here categorised as principles related to adherence to and the correct application of law. The principles are not exactly the same in meaning, however. *Legality*, for example, refers to whether an administrative act is in accordance with the law, whereas the Swedish version of the rule of law (*legalitet*<sup>18</sup>) also refers to that the general exercise of authority being dictated by appropriate law and that these laws being adhered to.

### **Transparency**

The principles of transparency, accountability and responsibility are closely coupled in several countries. The democratic aspect is apparent through the legitimacy of a transparent administration that can easily be held accountable and the promotion of responsibility. In addition, *the general- or public interest* and *participation*<sup>19</sup> are also frequent answers, representing democratic principles and values, found in half of the survey responses. A related sub-category of *openness* was also identified where some countries more specifically stated the principles of access to files and information as well as the protection of the free formation of opinion.

### **Impartiality**

This category is the largest within our survey results and represents a shared idea of good administrative practice by civil servants. *Professionalism, impartiality, objectivity, political neutrality*, and the *professional integrity* of civil servants feature throughout almost all answers to some degree. All the principles and values are close in meaning and stand for professional conduct in line with the law and devoid of personal interest. The principles and values in this category are thus closely connected to those of legality as the legal provisions have supremacy over personal assessments and interests.

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<sup>18</sup> Rule of law translates to *Rättsstatsprincipen* in Swedish and encompasses additional components aside from legality; formal requirements of legislation, protection of fundamental rights, accountability and judicial review.

<sup>19</sup> *Participation* can both refer to the legal principle of participation that is connected to the right to be heard, as well as participation as a democratic principle. It was not possible to discern a clear distinction between the different meanings from the survey answers.

Professionalism is the most recurrent principle in this category. The country-specific definitions of the principle vary, and often encompass more than merely objectivity and adherence to law. The French definition, for example, includes the duty of secrecy, loyalty towards superiors (unless manifestly illegal orders are given) and duty to inform the public, whereas the Latvian principle of professionalism is directly tied to the Constitution and is seen as a crucial vehicle to ensure legality, stability, efficiency and transparency of the state operations. Furthermore, professionalism is attributed both an external and internal meaning within the survey answers. The Belgian definition of professionalism places emphasis on the output (external) of the civil service, excellence (e.g. through personal development), quality, innovation and customer-orientation. The Croatian definition, on the other hand, includes a focus on the abilities of the civil servant and the value of personal advancement (e.g. through improving one's professional skills) as a condition for a professional civil service.

### **Efficiency and service**

The principle of good service is found among in all countries, through different kinds of values. *Celerity, expediency, quality, expertise, client-centeredness, user-orientation, decent behaviour, responsiveness, good communication, accessibility, and availability* all give expression to service-related values. An overarching principle within this category, and the most frequently cited, is *efficiency*. It gives expression to a far broader concept that encompasses the general conduct of the public administration, e.g. efficient use of public funds. It represents an expectation on the public administration to perform within a reasonable time, with high quality, and cost-efficiently. The relationship between efficiency and service is strong in the sense that the goal of efficiency should not undermine the service-oriented goals, legal certainty, or responsibilities towards citizens. In the Swedish administrative law principles, the two are explicitly coupled, *efficacy* and *service*. Similar versions can be observed in the survey answers where efficiency is not the sole principle, but is complemented by *availability, quality* and *user-orientation*, for example.

### **Non-discrimination**

In the survey, eight member states stated that they have written principles directly linked to non-discrimination. *Respect, non-discrimination, courtesy* and *fairness and integration* are the answers derived with a direct reference

to the principle. It is important to note that equality may also refer to the values of non-discrimination but has here been codified as a predominantly legal trait, which could give the impression that non-discrimination is a second-order priority among the member states. As an example, the Swedish principle of *respect* both includes an explicit mention of non-discrimination on the grounds of ethnicity, sexual-orientation, age or religion, as well as equality as a value within this category. Equality is also included under the principle of legality. It can, nonetheless, be observed that the principle of non-discrimination is less prominent, in terms of explicitness, among the member states, compared to the more commonly shared principles of legality, transparency, impartiality, and service.

### **Other recurrent, but less prominent principles and values**

Two separate clusters stand out as less prominent but yet distinct, *loyalty* and *innovation*. It is important to note that both values are included in a number of definitions relating to values and principles within the other clusters but are here presented when given as independent categories in the answers.

*Loyalty* and *sub-ordination* are common values in seven member states. These values have been interpreted as loyalty towards the organisation to which one belongs and conformity to its hierarchical structures. A wider definition is found in the Public Service Law of Cyprus that specifies the following duties, “[public servants] *shall serve the public, respect the constitution and the legislations and be loyal to the state*”. Within this cluster we find principles and values of good administration relating to responsibilities within the public administrations that are not necessarily in reference to law or the citizens. The French answer, for example, expressed both principles of loyalty and sub-ordination through compliance with hierarchical structures and devotion to one’s employer.

A second less prominent cluster, represented by five countries, revolves around the value of *innovation*. *Development, learning, co-creation, continuous improvement, and innovation* are the values that populate this cluster. Innovation and improvement are here actively connected to good administration as a fundamental value.

The Netherlands and Luxembourg specify values of continuous improvement of the public services through responsiveness to citizens' experiences and an orientation towards overcoming administrative hurdles, such as siloisation.

The answer from Estonia describes how strategies and development papers emphasise innovation as part of the contemporary direction of the public administration. Innovation as a fundamental value, however, is described as being less established compared to other values in part due to generational differences in terms of disposition towards the public administration and its central purposes.

### **National variance in performance across the European Union**

Most of the core aspects associated with good administration, *impartiality, transparency, openness, rule of law and democratic legitimacy*, can be found in the *Comparative overview of public administration characteristics and performance in EU28* published by the Commission in 2018.<sup>20</sup> The report shows a persistent heterogeneity among the member states and points to some important explanatory variables, such as administrative traditions, culture, and fiscal circumstances. Although *context* is given high importance, it is also stressed that the overall state system, history, and current politics play an equally important role. The report also shows that principles of good administration give no guarantees of effect when merely stipulated in text.

A notable example is the aggregated ranking based on *transparency and accountability* indicators. This category encompasses citizens access to government information, asset declaration by public officials and corruption. The level of performance on these indicators clearly varies across the union. Corruption is, for example, here highlighted as a serious issue as 11 countries fall below the minimum threshold.<sup>21</sup>

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<sup>20</sup> Thijs, N., Hammerschmid, G., & Palaric, E. (2017). A comparative overview of public administration characteristics and performance in EU28. *European Commission, Brussels*.

<sup>21</sup> *Ibid*, p. 41.

A second example is *impartiality* and *professionalism*. The report finds a strong correlation between the two. In other words, a public administration that is predominantly professional, rather than politicised, is more impartial in its implementation and application of laws and policies. Also here, similar variance is observed among the member states.

### **Tradition plays a central role in how basic values are codified**

In a study conducted by The Swedish Agency for Public Management in 2005 it was noted that the general principles of good administration, stipulated in the Charter of Fundamental Rights, were implemented to a great extent in the national legislation of the member states. The answers in our survey also show that basic values for public administrations in European countries are widely expressed in the countries' constitutions. Constitutions are meant to have a foundational role with long-term and deeply rooted provisions, providing continuity, stability and legal certainty.<sup>22</sup> In deriving basic values from their constitutions, countries are thus ensuring a level of stability and robustness regarding what basic values are to be upheld in their public administrations.

In the study from 2005, the agency also noted that development of administrative law has always been deeply influenced by European history, culture and constitutional contexts. There are at least four traditions of administrative law in Europe:<sup>23</sup>

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- The *Administration-centred* tradition treats administrative law as a tool for governments to run an efficient administration. This tradition is mainly associated with the French legal tradition and countries influenced by it. The design aims to construct efficient administration as well as policy implementation and provides its legal protection through assurance of adherence to laws and statute, rather than direct protection of the rights of the individual.
  - The *Individual-centred* tradition, associated with the Anglo-Saxon common-law countries such as Ireland and the United Kingdom, uses
- 

<sup>22</sup> IDEA, [The Fundamentals of a Constitution \(idea.int\)](http://idea.int).

<sup>23</sup> The Swedish Agency for Public Management (2005:4) Principles of Good Administration in the Member States of the European Union.



administrative law as a means to regulate the boundaries between the government and citizens and protect individuals against infringements on their rights. This tradition involves a focus on listening to citizens and strict control of state bodies and their practice.

- The *Legislator-centred* tradition closely resembles a court-like approach to administration, where the legislator is the main designer of detailed administrative procedures. The administration therefore assumes a role as an executor of law. This tradition is associated with the German tradition and the *Rechtsstaat*, but with also newer members of the European Union.
- The *Ombudsman-centered* tradition is based on *pragmatism* and representative of the Scandinavian administrative tradition. An independent person or body, appointed by the parliament, works externally of the executive to identify, and recommend solutions to instances of maladministration.

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In the 2005 study, The Swedish Agency for Public Management concluded that none of the above traditions can single-handedly represent any single state. Where one tradition may dominate, the others are likely to be represented in part. The agency also pointed out that this is especially true at European level, where the European Union has generated its own blend of traditions. While the administrative system of the European Union was initially modelled on the French system, subsequent developments led to a growing emphasis on individual rights in administrative procedures and in its later history, after the Maastricht Treaty, to an independent Ombudsman focused on the fight against maladministration.

### **Public administrations vary in the degree to which they are oriented towards beneficiaries**

Public administrations can vary in the degree to which they are inward and outward oriented. The distinction between the two can in simple terms be described as an orientation that mainly focuses on the internal practices and structures of the administration vis-à-vis one that explicitly accounts for the end-receivers or beneficiaries, i.e. the public. The distinction does not, however, represent a means of rating or mutual exclusivity. In this

context it is solely used for descriptive purposes. Guy Peters<sup>24</sup> tie such differences to the administrative traditions of states (as discussed above). One distinction is between *law* and *management* that defines the fundamental tasks of administrators within a tradition, with the former focusing on the proper application of public law, and the latter on “getting things done” and performance. To avoid a too dichotomous understanding, law is central to both distinctions, but it is the “beginning point rather than the ending point”<sup>25</sup> in the managerial perspective.

A second dimension refers to the relationship to citizens and is represented by the dichotomy between *administration* and *service*. The administrative version is motivated by law and a proper and legal handling of the matters of citizens. The service-oriented version also departs from the legal obligations but additionally emphasises the commitment to the recipient and their needs. The central difference here is thus the *administration* of rights vis-à-vis the *transaction* of rights.

We find traces of varying administrative traditions along these lines in the survey results. Within the *legalistic* tradition we found seven countries – Croatia, Cyprus, France, Germany, Hungary, and Poland – expressing principles and values that promote properness of the application of public law. The prominent principles are those of legal nature, e.g. objectivity, proportionality and equality and also transparency and effectiveness. The common feature is the clear focus on the application of public law by the civil servants to ensure that citizens enjoy the rights conferred on them. The German survey answer, for instance, explicitly states that the administrative culture is oriented towards legality, and this is considered a condition for democracy and the rule of law.

The *service-oriented* tradition was found among Belgium, Finland, Luxembourg, the Netherlands, Portugal, Slovenia and Sweden. The legal principles are also found among these countries but they additionally cite principles of:

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<sup>24</sup> Peters, B. G. (2021). *Administrative traditions: Understanding the roots of contemporary administrative behavior*. Oxford University Press.

<sup>25</sup> Ibid p. 31.

- 
- Service
  - User-orientation
  - Collaboration and good faith (towards citizens)
  - Accessibility
  - Professionalism (customer-orientation)
- 

The answers from the above countries explicitly articulate the transaction of rights through service. The task of the civil servant is thus extended beyond the proper application of law to also include obligations towards the citizens with regards to the output of services as well as treatment.

In the case of some answers provided by countries not mentioned above, it was difficult to discern the orientation due to less elaborate definitions. These responses were therefore omitted here in order to provide a fair assessment.

**Box 2. The five pillars of citizen-engagement to promote a user-centric public administration in Luxembourg**

In our follow-up interview with the representation of Luxembourg, they provided a clear example of the service-orientation, or *user-centrism* in their words. Discussing a citizens' charter at a EUPAN workshop of the *Innovative public service* group in 2005, the Luxembourgish delegation grew concerned by the lack of focus on citizen engagement. Drawing inspiration from the service and courtesy provisions provided in the European Ombudsman's *Code of good administrative behaviour*, five clearly stated pillars were formulated to promote a user-centric public administration. The "Guidelines of good administrative behaviour" (*Lignes de bonne conduite administrative*) of Luxembourg describe the five pillars of citizen engagement:

1. The accessibility of public administration and the reception of citizens
2. The information given to users
3. A transparent and clear decision making
4. A personalised follow-up
5. A continuous improvement of the services offered by the administration

The Ministry of Civil Service conducts citizens satisfaction surveys on a regular basis to follow up on the satisfaction of citizens with public services.

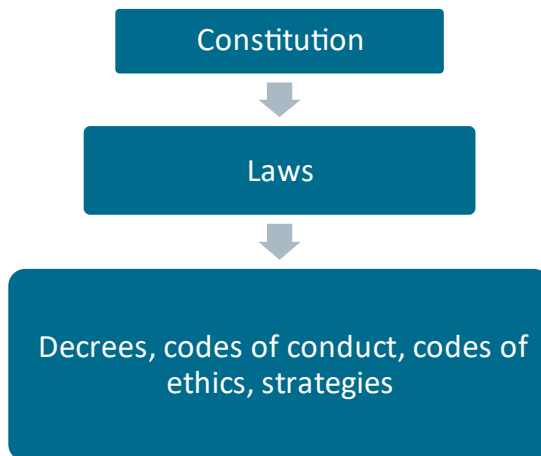
### 3 Codifying basic values of good administration

In this chapter, we explore the starting points of European countries' work to promote basic values in their administrations. Firstly, we provide an overview of where these values are written down, be it in law or elsewhere. Also, we present the scope of the basic values in terms of who they apply to.

#### The hierarchy of the legal system sets a possible structure for deriving basic values

The legal foundation of most countries consists of a founding document, such as a constitution, and underlying laws passed by the national legislature. This hierarchy can set the framework for countries' efforts to formulate and codify basic values that apply to their public administration. A set of principles are then identified in the constitution. They are reiterated and further developed in other statutory laws. In addition to this, the basic values are made more tangible by being formulated in government decrees, codes of conduct, codes of ethics for civil servants or some form of strategy that applies to the countries' public administrations. This hierarchy is illustrated in figure 3.

**Figure 3.** The hierarchy of deriving basic values from the constitution.



## **The Instrument of Government is the source of basic values in Sweden**

Sweden is an example of a country where this hierarchy exists. The Instrument of Government is one of four fundamental laws that makes up the Swedish constitution. It sets out the fundamental requirements for government authorities. The basic values of central government are partly based on the fundamental requirements in the Instrument of Government and consist of the six principles of democracy, rule of law, objectivity, free formation of opinion, respect, as well as efficacy and service.

The principles are also fundamental tenets of other laws and ordinances, most predominantly in the Administrative Procedure Act, most recently revised in 2017.<sup>26</sup> The act applies to the processing of matters at administrative authorities and the processing of administrative matters at the courts. The 2017 version of the act also contains provisions on the basis for good administration that apply to other administrative activities at administrative authorities and courts. The principles formulated in the Administrative Procedure Act are the following:

- 
- legality, objectivity and proportionality
  - service
  - availability
  - collaboration.
- 

The principles in the Administrative Procedure Act thus resemble the those found in the constitution, with some exceptions. There are no further decrees or codes of conduct in Sweden, that serve to further interpret the principles set out in law. Instead, the Swedish Agency for Public Management is tasked with promoting the understanding of the basic values set out in law. One of the tasks of the agency is to issue publications that serve to foster central government employees' understanding of the basic values of central government.<sup>27</sup>

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<sup>26</sup> Administrative Procedure Act (2017:900).

<sup>27</sup> The Swedish Agency for Public Management, *Basic values of central government authorities – a common principle for a good administrative culture*, [Basic values of central government authorities \(forvaltningskultur.se\)](https://forvaltningskultur.se).

**Box 3. The Estonian Code of Ethics provides guidance on the laws it is derived from**

In Estonia, a Code of Ethics for Officials, in practice, applies universally for civil servants and employees of central government. The Code of Ethics is mandatory by law for all civil servants. The code describes six fundamental values of a good official: *lawfulness, focus on people, trustworthiness, professionalism, impartiality, openness and cooperation.*

The code also contains an explanatory section, for the purpose of better understanding and implementation of the fundamental values. It also contains references to the main legal instruments from which the fundamental values are derived, these being both the Estonian constitution and provisions in other laws.

**Good administration in Sweden**

In 2017 the Swedish Parliament adopted a new administrative legal framework<sup>28</sup> with the intent to better capture the European legal principles of good administration. It came to include a set of *rule of law* principles and also a set of practically oriented rules. The rule of law set of principles consist of *legality, objectivity* and *proportionality* and clearly reflect the European legal principles; adherence to the rule of law, ensuring impartial, fair and reasonably quick handling of citizens' matters, and the proportionality of measures taken in relation to the purpose, i.e. measures should not extend further than necessary. The second set of practical rules consists of duty of service, simplicity, accessibility, and collaboration.

In her assessment of the updated administrative legal framework, Jane Reichel argues that the principles of rule of law strengthens the position of citizens vis-à-vis state authorities and agencies. The principles also become more visible for the authorities themselves in their exercising of duties. Moreover, the practical aspects connected to service gain greater meaning when compounded with the principles of rule of law. However, the Swedish version of the principles of good administration is not identical to the European version. Although principles and rules are accepted, they are implemented differently. There is therefore a risk that variance between the Swedish version and the legal provisions of the European Charter of Fundamental Rights may cause uncertainty.<sup>29</sup>

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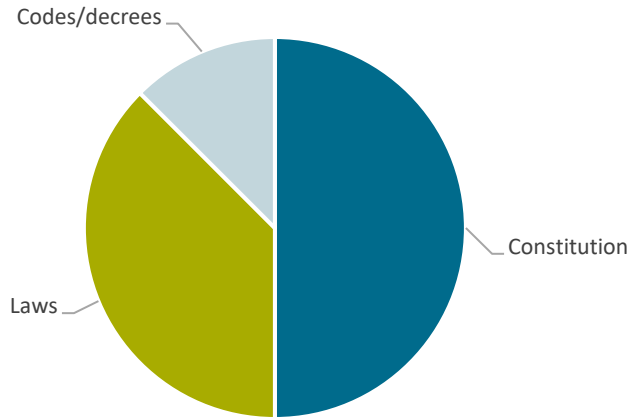
<sup>28</sup> Administrative Procedure Act (2017:900).

<sup>29</sup> Reichel, J. (2018). Europeiska principer för god förvaltning och 2017 års förvaltningslag. *Förvaltningsrättslig Tidskrift*, (3): 423–441.

## Basic values are often derived from law in European countries

In our survey of EUPAN member states, we asked them where the basic principles of their administrations can be found. Their answers are presented in figure 4 below.

**Figure 4. Foundations of basic principles for public administrations in European countries (n=24).**



Source: EUPAN survey from Sweden (2022).

In twelve of the countries, the basic values are derived from provisions in the constitution. In those countries where the constitution is the foundation, the basic values are also reiterated in other laws and subsequent decrees and codes.

In nine of the countries, the constitution does not set out the basic principles of their administration. Instead, the values are formulated in other legal provisions and then concretised in codes of conduct or other similar documents.

Our survey also featured three countries where the basic principles were only formulated in codes of conduct or similar documents.

It should be noted that forms of enactment for specific basic values vary across countries. For example, while some of the basic values can be found in the constitution of a certain country, other values can be added in other



legislation. In some countries, therefore, the hierarchy of deriving basic values described in figure 3 above only applies to certain basic values. Although this is the case in some of the countries that answered our survey, the quality of the answers does not allow for an analysis of how widespread this practice is.

### **There is also a European influence**

Membership in the EU certainly helps member states identify basic values and serves as a basis for lawmaking. There are a number of examples where EU law has functioned as an accelerator for the implementation and wider application of certain principles. For instance, recent academic analyses point to the fact that the principle of proportionality has become more widely used in Swedish legislation through the influence of EU law.<sup>30</sup>

### **Several institutions have contributed to good administration**

The Swedish Agency for Public Management has concluded that at least five institutions have, in their own way, contributed to what we mean today by the legal concept of good administration at a European level. The Council of Europe and the European Court of Human Rights has played a part in this as well as various institutions of the European Union (such as the Court of Justice, the General Court and the European Ombudsman), and individual member states of the European Union. As we already observed in chapter 2, the spread of the principles and values of good administration can be further attributed to the interactions between agencies and authorities at EU and national level, or the market, political and normative power possessed by the EU.

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<sup>30</sup> Henrik Wenander, *Proportionalitetsprincipen i 2017 års förvaltningslag*, Förvaltningsrättslig tidskrift, nr 2018/3.

## **Good administration practices correspond to the core values of the EU**

The Treaty of the European Union sets out six core values that form the basis of the union, making them common for all member states:

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- Respect for human dignity
  - Freedom
  - Democracy
  - Equality
  - Rule of law
  - Respect for human rights, including those of minorities
- 

The Treaty further states that these values are to ensure a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail. As we have seen in chapter 2, these core values are also represented as values according to which the countries' public administrations are to operate.

The interviews that we have conducted also point to the existence of influence from a common European level on the formation of basic values that guide the countries' public administrations. For instance, civil servants in Estonia have pointed out that the principles in the Code of Ethics for Officials have, at least in part, been derived from concepts seen as characteristic for a democratic civil service from a common European point of view. In Croatia's case, outlining a certain set of values for their public administration was a requirement from the EU institutions in their accession process. As for Luxembourg, we saw in chapter 2 that their participation in cross national discussions within the EU gave rise to the ambition to formulate citizen-oriented basic values at national level.

## **The principles apply universally to civil servants within central government**

In our survey of member states of EUPAN, we asked whether the basic values of their public administrations apply to the entire public administration or only to certain parts of it (such as certain professional groups, different categories of employees, levels of leadership).

Almost all the countries in our survey replied that the basic values described in their constitution, laws or various codes apply universally to civil servants within the central public administration.

Depending on the structure of the state administration of individual member states, there can be some differences as to the scope of the civil service and what professions can be said to sort under the term. Our survey did not seek out to examine these differences, but rather to identify whether certain professional groups or levels of management are excluded from the general basic values and thus adhere to other principles. This proved not to be the case, although five countries indicated in our survey that there are further codes of conducts for certain professional groups that complement the universal basic values. Some examples are the police, the military and civil servants that deal with public procurement.

In some countries, the basic values also apply formally to employees of local self-government bodies. There are also countries where the basic values are respected by local self-government employees, although there is no formal obligation for them to do so.



## 4 Instruments to promote basic values

In this chapter, we describe the instruments to promote a good administration that can be found in European countries. The chapter contains an overview of institutions that are relevant in the countries' efforts in this field and the tools the institutions use in their work.

### **Most countries have institutions responsible for promoting basic values**

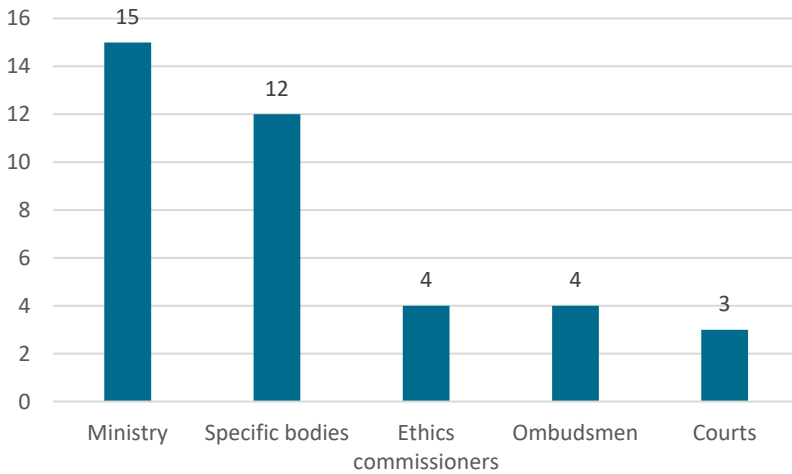
Our survey to member states of EUPAN contained a question on the existence of specific institutions that are responsible for promoting basic values in their public administrations.

A clear majority (21 in total) of the countries that participated in our survey stated that there are institutions in their country that have such a task. Only three of the 24 countries that answered our survey said that there is no such institution in their public administrations.

### **Institutions have shared responsibilities in most countries**

Another purpose of our survey to the EUPAN member states was to map out the institutions involved in promoting basic values in the countries' public administrations. The answers point to there being more than one institution in most countries which cooperate on this matter, as shown in figure 5 below.

**Figure 5. Institutions that promote basic values in public administrations (n=24).**



Source: 2022 EUPAN survey.

In fifteen of the countries, a government ministry is involved in the work. In some cases, this task is fulfilled by the ministries through their involvement in legislative activities and issuance of regulations, decrees and general directives. Ministries in some countries also have a more hands-on approach and are responsible for the practical work described in section 4.2. below. Ministries are predominantly involved in:

- 
- monitoring the application of the regulations,
  - providing training activities to the central public administration
  - coordinating government-wide ethics programmes
  - coordinating networks of public personnel
- 

In twelve of the 24 countries, there is a specific government body other than the ministries that has the task of promoting ethics and basic values in the central public administration. In most countries, there is a division of tasks between ministries and other government bodies, while a few countries only mention government bodies apart from the ministries as being responsible for values promotion.

Four of the countries also employ ethics commissioners in all state bodies. Ethics commissioners are commonly employees of state bodies, specially tasked with promoting basic values in their organisation. In some cases, the ethics commissioners are also responsible for monitoring the application of regulations or codes of conduct that deal with basic values or ethics.

Another four countries emphasise the role of ombudsmen. The tasks performed by ombudsmen seem to vary, although they are often some sort of independent supervisory body. Some countries emphasise their role in investigating suspected maladministration, while others describe them as being tasked with monitoring and promoting the implementation of the principle of equal treatment, the rights of children and other vulnerable groups.

A few of the countries that have answered our survey point to the tasks fulfilled by administrative and constitutional courts. The courts' tasks are fulfilled through their jurisdiction to repeal laws or to hear appeals against decisions of administrative authorities.

**Box 4. Promotion of basic values in Portugal and the role of the Council for the Prevention of Corruption**

In Portugal, all organisations within the public administration are responsible for promoting basic values internally, by implementing ethical codes. The National Institute for Administration provides training for public servants in these matters and the Council for the Prevention of Corruption helps to further promote values such as integrity, probity, transparency and accountability.

The Council was created in 2008 and serves as an independent administrative body attached to the Court of Auditors. Its purpose is to develop nationwide activities in the field of prevention of corruption and related offences. Its tasks include monitoring the implementation of legal instruments and administrative measures adopted by the public administration and the assessment of their effectiveness, elaborating guidance/-recommendations (e.g. on conflicts of interest, public procurement, etc.), providing knowledge to the Portuguese parliament and government and collaborating with the public authorities involved in the adoption of

internal measures to prevent corruption (e.g. codes of conduct, initial or lifelong training). It also makes unannounced visits to public bodies in the context of monitoring, management tools, and preventing corruption risks. Public bodies are obliged to provide information to the Council upon request as well as providing their respective Corruption Risk Management- and Related Infringements Plans.

Other activities include organising training, workshops, seminars and providing educational material. The Council also participates in projects with other parties to further raise awareness. The Council's ambition is to foster integrity at school level. To this end it also produces web material and communicates via YouTube and social media, organises a national competition (Images against corruption) and gives an award (CPC – Science) with the aim of stimulating knowledge on corruption as a phenomenon.

### **Rules-based and values-based instruments in the promotion of basic values**

The distinction between rules-based and values-based instruments is a central dichotomy in ethics management. In an article<sup>31</sup> from 2021, Andersson and Ekelund map out the elements of the two forms of instruments and their relation to either external or internal controls. The authors state that external controls refer to instruments imposed on individual public servants from “outside themselves”, such as ethics legislation and codes of conduct. Strategies based on external controls (rules-based), emphasise rule compliance, avoidance of illegal behaviour and a belief in the extrinsic motivation of employees and assume that relying on self-regulation and professional standards to uphold ethical behaviour is insufficient. They also tend to be top-down.

The components of internal controls, on the other hand, are made possible by public servants' internalising professional values and standards through personal and professional socialisation processes. The authors thus label strategies that emphasise instruments to encourage self-regulation, moral judgment, and each person striving to tune his or her ethical compass as

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<sup>31</sup> Andersson, S. and Ekelund, H. 2021. *Promoting Ethics Management Strategies in the Public Sector: Rules, Values, and Inclusion in Sweden*. *Administration & Society*, 54(6): 1089–1116.



values-based. Instruments such as ethics training, experience exchange, and dilemma workshops can be used as part of such strategies. Public administrators are expected to make decisions motivated by what is right based on moral values and intrinsic motivation and not by avoiding punishment for breaking rules.<sup>32</sup>

The central elements of rules-based and values-based instruments in ethics management are described in table 1 below.

**Table 1. Central elements of rules-based and values-based instruments in ethics management.**

Rules-based instruments	Purpose
Risk analysis; Code of conduct; Conflict of interest policy; Gifts and gratuities policy; Post employment arrangements; Structural measures (e.g. function rotation)	Determining and defining integrity
Rules-based integrity training; Oath, signing integrity declaration; Advice, counselling	Guiding towards integrity
Whistle-blowing policies; Complaints policies; Inspections; Integrity testing; Early warning systems; Systematic registration of complaints, investigations, etc.; Survey-measurement of integrity violations and organisational climate	Monitoring integrity
Formal sanctions; Procedure for handling integrity violation	Enforcing integrity

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<sup>32</sup> Ibid.

Values-based instruments	Purpose
Analysis of ethical dilemmas; Consultation of staff and stakeholders; Code of ethics; Non-written standard setting.	Determining and defining integrity
Values-based integrity training; Integrating integrity in the regular discourse (e.g. announcing the integrity policy through channels of internal and external communication); Exemplary behaviour by management; Coaching and counselling for integrity	Guiding towards integrity
Survey measures of integrity dilemmas; Informal probing for ethical dilemmas and issues among staff	Monitoring integrity
Informal sanctions	Enforcing integrity

Source: Andersson and Ekelund, 2021. Based on Maesschalck and Bertok, 2009.

### **Countries apply a mix of rules-based and values-based instruments when promoting basic values**

Our survey of EUPAN member states included a question on the instruments the relevant institutions use in their promotion of basic values within their central public administrations. We have grouped the answers into categories that illustrate the purpose of the instruments in line with the categories used by Andersson and Ekelund in table 1 above. Our overall findings suggest that countries use a mix of rules-based and values-based instruments when promoting basic values in their public administrations. However, rules-based instruments seem to be more common in monitoring and enforcing basic values.

### **Strategic documents can be both rules-based and values based**

As we noted in chapter 3, government bodies in most countries derive a set of basic values from law and develop them further in government decrees, codes of conduct, codes of ethics, strategies, and other similar documents. In seven of the countries that answered our survey, basic values are derived from law and further developed in codes of conduct. Four of the countries answered that basic values were formulated in codes of ethics. Other countries that answered the survey did not specify whether there are codes of conduct or codes of ethics, but rather referred to such documents as simply “codes” or used some other descriptive term.

Andersson and Ekelund point to strategic documents, such as codes of conduct and codes of ethics, as a way for an organisation to determine and define integrity. Although the purpose of the two types of documents is to provide principles defining the ethics of an organisation, a code of conduct also contains specific rules for employee actions and behaviour. A code of ethics, on the other hand, is broader, providing a set of principles that are intended to affect employee mindset and decision-making.

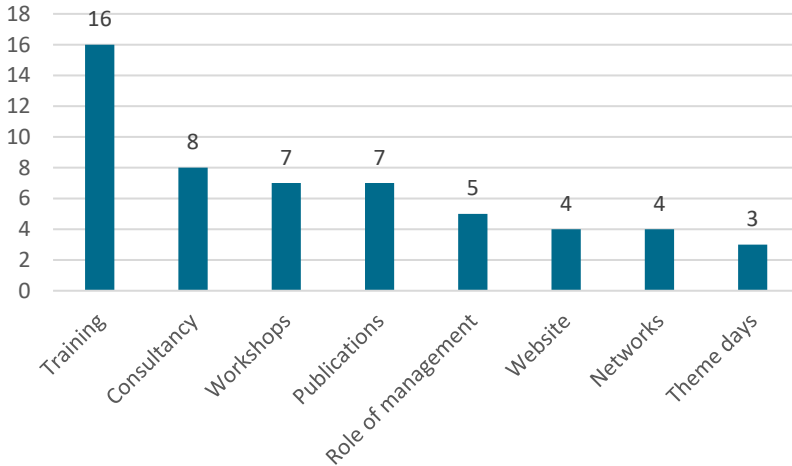
In their pure form, the two documents vary in their enforceability. A code of conduct is often easier to enforce because the code often specifies policies along with corresponding consequences for code abuses. A code of ethics, on the other hand, focuses more on values and moral principles than on specific actions, making it harder to enforce. Enforceability is often not even the goal of such a code.

We have not been able to perform a review of relevant documents within the scope of our study, in order to conclude whether the documents referred to in the countries' answers could be categorised as rules-based or values based. However, from the answers in our survey we deduct that the terms "code of conduct" and "code of ethics" are used interchangeably and thus might in several cases refer to the same types of documents.

### **Training is the main tool for guiding towards basic values**

The answers in our survey that described the tools used to guide towards basic values in the countries' public administrations show that the countries apply a number of tools for this purpose. These are illustrated in figure 6 below.

**Figure 6. Instruments used in European countries' efforts to promote basic values in their central public administrations (n=24)**



Source: 2022 EUPAN survey.

Training is the main instrument used in the countries efforts to promote basic values in their central public administrations. A total of 16 of the countries provide some form of training on basic values. Most commonly, training is provided through various forms of e-learning tools. Most of the answers do not contain enough information on the contents of the training activities provided. It was thus not possible to discern from the answers whether rules-based or values-based approaches are more common in the countries' training activities. The countries that have provided insight into the contents of the courses, mainly emphasise the fact that the courses serve to familiarise the civil servants with the basic values that apply to their public administrations. The answers also point to the fact that training activities mainly occur online, suggesting that training is coupled with a rather soft steering mechanism.

### **Several countries provide some form of counselling**

Eight countries offer some form of coaching or counselling in basic values, either by specially appointed ethics commissioners in each organisational body or through institutions tasked with promoting basic values. Also in this regard, it is not possible to discern from the answers of our survey whether the consultancy provided in these countries takes a rules-based or a values-based approach. The examples provided in the answers range from a designated organisation within a county's public administration providing guidance to other organisation on the process of contextualising these basic values, to an organisation's specific missions to individuals within the public administration (ethics commissioners or similar) providing advice on certain situations to other individuals. In seven of the countries, a responsible institution arranges workshops, seminars or conferences in order to facilitate understanding of basic values among civil servants in central public administrations. The same is the aim of specially designated websites in four of the countries. Responsible institutions in seven countries also publish publications on such matters.

### **Other instruments include networks and theme days**

Five of the countries emphasise the role of leadership in this regard. Top managers are expected to be more active in promoting basic values than other employees and to lead by example in their everyday working life.

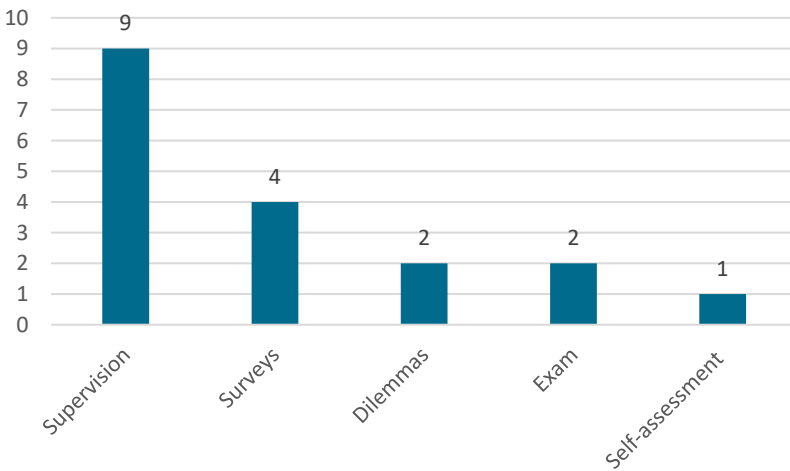
Countries that offer access to networks of civil servants (four of the countries that answered our survey) aim at fostering informal exchange of knowledge and experience in these matters. Other instruments highlighted in the answers of our survey were theme days in the central public administrations as a way to intensify knowledge sharing efforts and set aside time for discussion (three countries offer such forms of knowledge sharing).

In sum, the countries apply a variety of instruments in order to facilitate civil servants abiding by the basic values set out in law and other guiding documents. The two main instruments (training and consultancy) show elements of both rules-based and values-based approaches. It is, however, not possible to distinguish from the answers to our survey which approach is more predominant.

## Monitoring and enforcing mechanisms are mainly rules-based

As seen in table 1 above, rules-based and values-based approaches can also be found in the monitoring and enforcing instruments of ethics management. The answers in our survey point to that European countries apply a mix of the two in this case as well, with a predominance of rules-based instruments, as shown in the figure below.

**Figure 7. Instruments used in European countries' efforts to monitor adherence to basic values in their central public administrations (n=24)**



Source: 2022 EUPAN Survey.

A majority pointed to the fact that civil servants in their central government administrations are expected to know about and adhere to the basic values in their working life. In other words, civil servants are expected to understand the context in which they function as representatives of central government. A total of 19 countries mentioned such a responsibility for civil servants in their public administrations. In our survey, this is also the only stated expectation regarding activities to promote basic values in some countries. These answers indicate that several countries simply do not employ mechanisms that monitor adherence to basic values among civil servants.

Of those countries that provided examples of monitoring mechanisms in their answers to our survey, nine stated that there are supervisory mechanisms within their central public administrations to ensure that civil servants adhere to basic values. In some countries, ethics commissioners are responsible for monitoring adherence to the basic rules among employees of their organisations. In other countries, institutions responsible for promoting basic values, are also tasked with monitoring that the basic values are respected, for instance by collecting reports from public administration organisations on how basic values are respected in their organisation. In some other countries, various indicators are used to measure the efficacy of the work to promote basic values, such as monitoring the number of reports on breaches of the values.

Most of the countries that have highlighted supervision as a monitoring mechanism also point to the fact that individuals are subject to disciplinary or criminal prosecution in cases where breaches are evident. Formal sanctions thus seem to be the most common form of sanctions, making mechanisms for enforcing compliance with basic values clearly rules-based in countries that described such mechanisms in our survey. None of the countries described a form of informal sanctions in their answers.

In four of the countries, various types of surveys are conducted to gain knowledge of how basic values are implemented and respected in their public administrations. Surveys are conducted both among employees of state bodies and among citizens and focus on examining the degree to which the public or civil servants feel that basic values are respected within public administrations. One country uses anonymous self-assessment as a tool for fostering knowledge on basic values, while two countries also offer the possibility for civil servants to discuss dilemmas on basic values, as a way of familiarising themselves with situations where basic values can come into question. Another two countries require civil servants to pass an exam on the subject.

In our survey, dilemma exercises and self-assessment stand out as clearly values-based approaches in monitoring civil servants' compliance with basic values in the countries that answered our survey. These tools are often used as supplementary measures in the countries that apply such tools. Considering that only three of the countries do so, we conclude that rules-based monitoring mechanisms are more common among the responding countries.

**Box 5. Ethics commissioners in Croatia promote basic values and collect data**

In Croatia, ethics commissioners play a role in promoting basic values in state administration bodies. A state administration body can choose to have one or more commissioners, depending on its' size. The commissioners are civil servants dealing with ethical issues within their specific bodies. Their work is not solely devoted to integrity matters; they thus have other responsibilities alongside their duties as commissioners.

Ethics commissioners have a proactive role within their respective state bodies to promote ethical standards, provide instructions to their colleagues and provide guidance on issues of application of ethical values. They also examine the merit of complaints lodged against civil servants in case they do not adhere to the prescribed ethical standards.

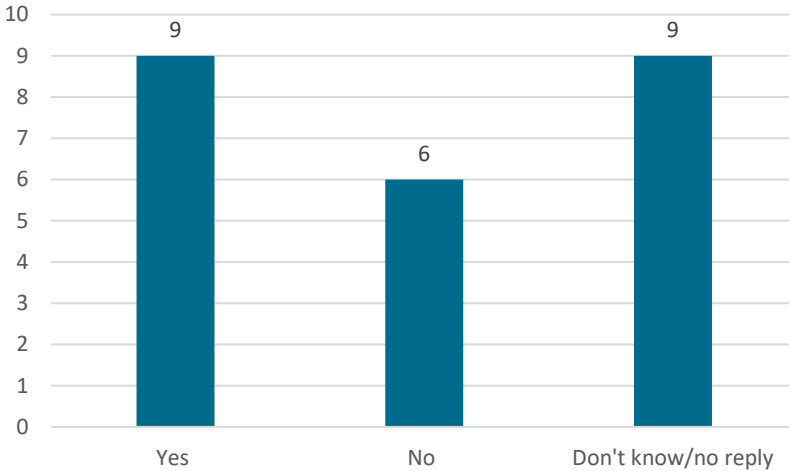
The Ministry of Justice and Public Administration is responsible for standardising the work of the ethics commissioners as well as for providing them with instructions and explanations. Ethics commissioners provide the ministry with annual data, which serves as a basis for a collected report, published on the ministry's website. The report contains information on complaints lodged on the unethical conduct of civil servants. It also contains information on praise for the work of civil servants. Such data has been collected since 2011, at which point there were about 500 annual complaints. Recent figures point to about 200 complaints annually. Representatives of the Croatian public administration that we have interviewed perceive the decrease in complaints as indicative of improved awareness and adherence to the ethical principles among Croatian civil servants.



## Evaluations seem to be fairly uncommon

In our survey of EUPAN member states, we asked them whether there have been any evaluations of the work to promote basic values in their public administrations. Their answers are presented in figure 8 below.

**Figure 8. Existence of evaluations of work to promote basic values in public administrations in European countries (n=24).**



Source: 2022 EUPAN survey.

Nine of the countries responded that there had been evaluations on this work, while six countries replied that there had been no such evaluations. Another nine countries responded that they didn't know whether there had been such evaluations or opted not to reply to the question.

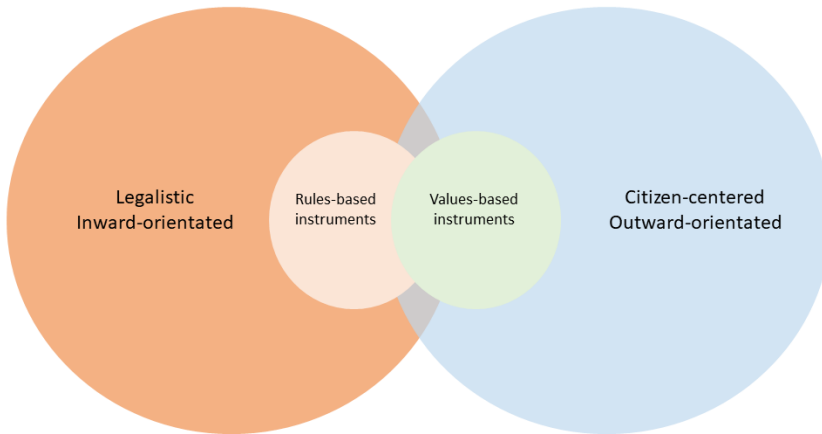
Among the countries that replied “yes” to the question, there seems to be differing views on what can be constituted as an evaluation. Some countries regard annual reports on activities from organisations within the central public administration as evaluations whereas others regard evaluations as studies of the effectiveness of instruments used to promote basic values.

While the answers leave some room for interpretation, we see them as indicative of that most countries primarily focus on activities to promote basic values rather than evaluating their effectiveness.

## Several perspectives coincide to provide a mix of working methods

In previous chapters we have discussed the distinction between inward- and outward-orientation and how it is distinguished by a legalistic vis-à-vis a service/citizen-oriented tradition of public administration. In this chapter we have also described two different kinds of instruments for the promotion of basic values, rules- and values-based instruments. We conclude this chapter with a discussion on how these many concepts relate to one another. We argue that the choice of rules- or values-based instruments for values promotion in European countries is, at least in part, conditional upon the orientation of the countries' administrative traditions. The relationship between the concepts is illustrated in the figure below.

**Figure 9. The relationship between legalistic and citizen-oriented approaches vis-à-vis rules-based and values-based approaches.**



This representation serves to show different ways of implementing basic values within public administrations across Europe. The concepts are described in dichotomous terms, in order to facilitate an understanding of their meaning. This chapter has shown that countries adopt a mix of tools to further basic values in their public administration. Therefore, there is also reason to believe that there is a mix of orientations and traditions in which tools for values promotion are chosen. The analysis is, however, surface-level as it is based on limited empirical data, but it nevertheless shows some general trends.

The legalistic tradition builds on an adherence to the provisions of law and their proper application. The use of rules-based instruments is rather natural as it emphasises rules-compliance, avoidance of illegal behaviour, and establishing robust structures in a top-down manner. It further entails stricter supervisory activities and disciplinary measures in instances of misconduct. We observed that training and consultation to ensure understanding of codes of conduct, conflict of interest guidelines and corruption prevention policy are the most common tools. A thorough understanding of rules and values is thus the main source for facilitating good administrative behaviour in many countries.

The service/citizen-centred tradition is inherently more values-based. Although legal obligations are essential, values tied to responsiveness to citizens' needs and preferences, good communication, and interactions are ascribed high importance. We do not, however, argue that the relationship is bound by law. When it is required that civil servants acquire a disposition that accommodates these values, which is achieved through internalisation and socialisation, values-based instruments serve as suitable options.

The Finnish and Belgian emphasis on the significance of leadership and communication are two good examples. People in leadership positions are not only responsible for ensuring sufficient understanding of the values and principles, but also for their diffusion within the organisation. This is clearly exemplified by the Finnish answer on the question of what instruments are used to promote values; *“Leadership, communication, training and discussions are pivotal for making ethics a living subject in the daily work”*. The Finnish answers also give expression to the importance of a comprehensive approach to civil-service ethics; *“Civil-service ethics is deeply interconnected with other things, especially leadership and management practices, training, governance and transparency”*.

In Belgium the focus on culture means promoting dialogue and denoting the importance of fostering a positive culture. In our interview with a representative of the Belgian public administration, communication and dialogue were stated as instruments for “opening up” organisations and establishing the values of good administration. They were, in addition, contrasted with rules-based approaches, although these two approaches

should not be opposed but seen as complementary and a balance between them ought to be achieved in relation to the context and the missions of organisations. Storytelling was given as a concrete example of an awareness instrument available to people in leadership positions, and also to encourage the transfer of valuable knowledge between civil servants. It helps to lend tangibility, context and meaning to principles and values and to foster a common understanding as well as a connection to them within the organisations.

## 5 Conclusions and the way forward

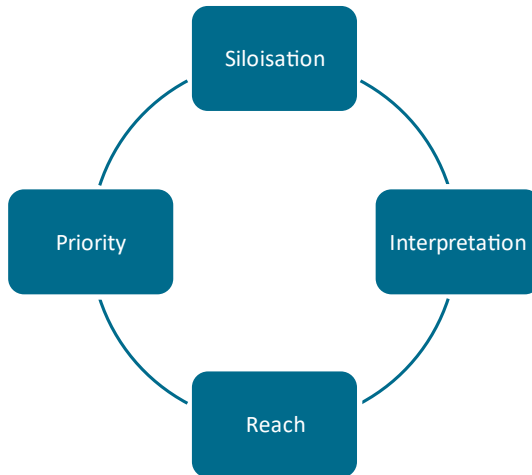
All the countries surveyed in this study have formulated a certain set of basic values that apply to their central public administrations and that public servants should adhere to. The variety seen in the way the countries promote these values and monitor how the values are lived up to may have several explanations, whether these lie in the overall structure of the public administration, tradition or current policies.

In this chapter we conclude our study with some insights into the challenges entrenched in the countries' efforts to promote basic values. We also propose a set of choices governments and leaders of state organisations can make, in order to further facilitate the promotion of basic values within their central public administrations.

### Coexisting factors create challenges to values promotion

Those countries that did have insight into the effectiveness of their efforts to promote basic values shared with us their general insights into the challenges related to this work. They are summarised in figure 10 below.

**Figure 10.** Factors that create challenges in countries' efforts to promote basic values in public administrations.



Source: 2022 EUPAN survey.

Some of the countries point to tendencies for public administrations to work in silos, i.e. following a certain set of values that are linked to their own organisational missions. Such “managerial values” may be seen as competing with a more universal set of values for the whole public administration, making it unclear for the civil servant how to combine the two.

Other countries raise concerns regarding the possibility of subjectivity when civil servants are to interpret and apply the basic values in practice. They argue that it is not enough to state values in documents, because it allows the recipient to define them on their own. The broadness of the audience that should adhere to basic values calls for further activities to help civil servants understand the basics of the values.

In a similar way, some countries identified reach as a general challenge, concluding that it is hard to reach all public servants with promotion activities. Also, there can be a degree of confusion as to the level of understanding of the basic values among certain types of employees, such as contractual employees and recurring consultants.

Lastly, the failure to prioritise values promotion is seen as a key challenge in several countries. There are many reasons why organisations might fail to prioritise activities that encourage values promotion. The answers in our survey point to the fact that there is often a lack of time in the day-to-day operations of public administrations to allow appropriate activities to contextualise basic values and to make the understanding of these more accessible. Also, getting large numbers of public servants to adhere to basic values and understand them in the same way is a slow-moving process, that takes time. Furthermore, some countries point to the risk of values promotion becoming a merely cosmetic and “box-ticking” exercise, due to the lack of interest on the part of top managers in including values promotion on their organisations’ agenda. As one country put it in our survey, “in that case, values remain glossy concepts on posters or leaflets”.

**Box 6. Harmonising the framework for promoting integrity in Belgium could help overcome challenges**

In Belgium there is currently an ongoing legislative process aiming to provide a legal framework for integrity policy and integrity management within the federal public administration. As expressed during our interview with a representative of the relevant Belgian ministry, such formalisation seeks to provide a harmonised architecture and to better define the role of integrity actors within that architecture, thus ensuring a coherent implementation within the public administration.

According to the interviewee, work to raise integrity awareness through values often faces the following challenges: the need to allocate adequate resources as well as the priority given to integrity across sectors and ensuring continuity of efforts to promote the values associated with integrity. In Belgium, a harmonised framework is held to be a measure for tackling these challenges and making the work on integrity more visible and an integrated part of each organisation. A harmonised framework can also ensure a shared and coherent understanding of the contents of integrity, such as a focus on a good administrative culture.

**The way forward – balancing structure with culture**

At this point, we offer yet another conceptual dichotomy to illustrate a final point, the importance of applying a mix of structure and culture in values promotion in public administrations. In a handbook from 2022, The Swedish Agency of Public Management argues that organisations within public administrations need to distribute their efforts equally between working towards a solid structure and towards a solid culture, in order to reach the goal of an organisation that adheres to certain basic values.

Structure is comprised of the laws and ordinances decided upon by parliament and government. Further strategies, codes and decrees by the government and individual organisations serve to uphold structure. The overall organisation of everyday operations is also a part of the structure.

Culture, on the other hand, is about how managers and employees in an organisation work together to uphold basic values. For instance, in a sound organisational culture, the people involved have a common understanding of how basic values coexist and how values can be upheld, even in

situations that pose a threat to their liveliness. Furthermore, culture is not only a matter of values. It also encompasses the actions of managers and employees, thus shedding light on whether basic values are put into practice.

### **There are several aspects to consider when talking about structure in a cross-national context**

Structures provide limitations and necessary constraints on public administrations to ensure that they operate within the boundaries of the values, principles, and laws to the benefit of the citizens they serve. Whether structures on their own are sufficient to facilitate this, is contested in academic discourse. Within the theoretical literature there is a general disagreement concerning the impact of *structures* in public administrations and to what extent the structure conditions the behaviour of public employees.

Some literature on good administration, as well as good governance, iterates the distinction between legal principles that defines the operative legal space of public administrations and the behaviour of the individuals within that space. Batalli and Fejzullahu point to the importance of the *human factor* in the application of legal principles and how it could either facilitate implementation of or obstruct said principles. Promotion of professionalism, ethics, fair recruitment, and creation of opportunities for personal development are highlighted as positive measures.<sup>33</sup> Rothstein points to the social norms that make up the daily work and how they shape the *standard operating procedures* of an organisation and how these need to align with the values and laws of the state<sup>34</sup>. Stelkens and Andrijauskaitė argue along similar lines, the success of the European principles of good administration is conditional upon two main processes; formulating the principles in legal text, and the process

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<sup>33</sup> Batalli, M., & Fejzullahu, A. (2018). Principles of good administration under the european code of good administrative behavior. *Pecs Journal of International and European Law*, 2018(1): 26–35.

<sup>34</sup> Rothstein, B. (2021). *Controlling corruption: The social contract approach*. Oxford University Press, USA., pp. 10–15.



by which the principles make their way into the national legal orders and become embedded in them.<sup>35</sup>

In addition, there is a body of literature that contests standardised models of good administration and governance and argues for attention to the variation of preconditions among member states. Fogelklou points to the consequences of the *transplant effect*, i.e. the transfer of law from one context to another, as the administrative culture across Europe varies and the way that values, norms and practices develop much slower than legal text.<sup>36</sup> *Multi-speed Europe* refers to the fact that Member States adapt differently to the principles of good administration, in part due to varying preconditions and capacities.<sup>37</sup> Moreover, the concept of *good enough governance* moves the focus from the *form* to the *function* of application and that not all good things have to come at once.<sup>38</sup> It puts emphasis on the sequence of change and necessary guidance to facilitate effective implementation. However, none of these perspectives criticise the purposes of good administration, but rather focus on the aspects of facilitating a sustainable good administrative culture that works in practice.

### **We observe a trend towards combining structure with culture**

During the course of our study, we have seen that European countries are moving towards values promotion that entails adding the cultural perspective to the more traditional structural approach. Simply put, governments and public administrations are adding more values based tools to their values promotion tool box, in order to foster a culture of integrity.

For instance, ethics commissioners in Croatia offer public servants a chance to discuss challenges in an informal setting. The Portuguese Council for the Prevention of Corruption works on several platforms and towards a variety of

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<sup>35</sup> Stelkens, U., & Andrijauskaitė, A. (Eds.). (2020). *Good Administration and the Council of Europe: Law, Principles, and Effectiveness*. Oxford University Press.

<sup>36</sup> Fogelklou, A. *Förvaltningen i Centraleuropa: på väg mot konsolidering*. In Marcusson, L. (red.) (2006). *God förvaltning: ideal och praktik*. Uppsala: Iustus., pp. 150–151.

<sup>37</sup> Stelkens, U., & Andrijauskaitė, A. (Eds.). (2020). *Good Administration and the Council of Europe: Law, Principles, and Effectiveness.*, p. 757.

<sup>38</sup> Grindle, M. S. (2004). Good enough governance: poverty reduction and reform in developing countries. *Governance*, 17(4): 525–548.

interest groups; through workshop, networks and social media, to name a few methods. In Belgium, public servants within the responsible ministry work to promote dialogue in various government organisations, by adapting the discourse to the missions and operations of each organisation.

The responses to our survey also show that countries apply a variety of tools to promote basic values. Several of the tools can be seen as an effort to promote continuous dialogue, something that is central in a culture of integrity.

### **Good administrative culture in a Swedish perspective**

In recent years, the Swedish government has made the concept of a good administrative culture a priority. A good administrative culture in the Swedish context is one where the values, principles and laws of administration become institutionalised within organisations. It refers to the behaviour of individuals within these organisations and how they become carriers of the principles of good administration. The administrative culture thus encompasses both the formal documents where the values, principles and laws are stipulated and the way these are put into practice. This view prompts an additional understanding of good administration as social, informal, and bound to context.

A good administrative culture in Sweden needs to rest on the basis of the fundamental requirements of the Swedish constitution and other statutory laws. The Instrument of Government and the Administrative Procedure Act<sup>39</sup> express several principles that apply to all central government employees, regardless of their title or tasks. Those principles are *democracy, rule of law, objectivity, free formation of opinion, respect* as well as *efficacy and service*. The principles are intended to ensure a public administration of robust democratic, legally certain, and efficient conduct, free from corruption. The principles are also fundamental tenets of other laws and ordinances.

Organisations within the public administrations differ from each other and it is important that the principles align with each individual culture and set of norms. In 2017, the Swedish Agency for Public Management was tasked by the government with leading the work to promote a good administrative

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<sup>39</sup> Instrument of Government (Regeringsformen 1974:152) and Administrative Procedure Act (2017:900).

culture in the central government and with contributing knowledge to develop administrative policy. One flaw that the government identified in previous efforts to promote a good administrative culture in Sweden was the lack of continuous training and active participation of employees. Active and continuous training provides positive conditions for institutionalising the principles and making them a core part of the system of norms within the organisation. The Swedish Agency for Public Management thus provides continuous training to public administration employees on basic values as one of several values-promotion instruments.

As described above, *structure* is present in Swedish values promotion in that basic values are derived from the constitution and reiterated in other laws and ordinances. The legal framework provides guidance on how the basic values are to be interpreted. Furthermore, the additional focus on *culture* in the concept of good administration entails attention to what is perhaps not written out or formalised. In the view of the Swedish Agency for Public Management, a good administrative culture is a combination of *structure*, *values* and *practice*.

### **Concrete measures can be taken to work towards a good administrative culture**

In 2021 The Swedish Agency for Public Management investigated how government agencies work to achieve a good administrative culture and what challenges and opportunities they face in this work. The starting point is that a good administrative culture is the institutionalisation of central government's basic values. The aim of the study was to gather experiences, learn lessons and spread knowledge about how central public administrations can work for a good administrative culture.

In the study, the agency examined central public administrations' work based on four factors that, according to the agency's collective experience, are central to promoting a good administrative culture. These factors were *consensus on the mission*, *internal control*, *leadership and employeeship* as well as *education and continuing training*.

Although the findings of the study were bound to a Swedish context, we see that many of them can be relevant in the context of other European public administrations. For instance, many of the countries that answered

our survey point to education and continuing training as key elements of basic values promotion. The role of leadership and open discussions among employees is also areas that public administrations have started to pay more attention to, according to our survey.

The lessons learned in the study from 2021, and which are supported by our observations from other countries, are summarised below.

### **A common understanding of the mission**

Employees of an organisation, from top managers to co-workers, must have a common understanding of the agency's mission. This common understanding can be made possible through the following:

- 
- Managers need to interpret the organisational mission and spread this interpretation among the employees.
  - Managers need to find ways to have open discussions with employees.
  - People in management positions need to work as a single unit, but also be able to voice different perspectives.
  - Organisational changes can create or strengthen common understanding, provided that such changes are made with this goal in mind.
  - Some organisations work according to their own set of values. This is often regarded as a way to foster a common understanding within the organisation. However, there is a risk that basic values that apply to the broader central public administrations get set aside. The gains of such “managerial values” are also unclear.
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## **Internal control**

The management of an organisation is ultimately responsible for the internal policy documents, including ensuring that the operations are conducted efficiently and effectively in accordance with applicable law. Internal policy documents thus have the potential to enshrine basic values and apply them to every-day operations. In order for this to be successful, there are some lessons to be learned:

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- Organisational plans can clarify and concretise efforts to promote basic values.
  - Activities to promote a good administrative culture should be a part of the organisational plan on a regular basis, rather than being one-off occurrences.
  - Clear, relevant and living organisational documents make it easier for employees to act in a desirable way.
  - Legal support facilitates promotion of basic values, but small organisations often lack such resources.
  - Internal guidelines on, for example, conflicts of interest, secondary employment and how managers and co-workers should handle suspicions of corruption and fraud can counteract conflicts of interest and promote a good administrative culture.
  - In order for such internal policy documents to contribute to a good administrative culture, they must also be well-known, easily accessible, easy to understand and adapted to the specific operations.
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## **Leadership and employeeship**

An organisation's management and managers have great potential to influence the administrative culture. In order to achieve results, the following is necessary:

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- A good administrative culture must be an integral part of the leadership.
  - Managers who are present and support co-workers in their efforts also have better prospects of counteracting corruption.
  - Managers need time and knowledge to be present and helpful.

- Employees need to be involved in the development of their organisation and assume responsibility for their duties.
  - Managers can promote a good administrative culture by being open about important decisions. At the same time, openness must not inhibit the management's decision-making capacity, as this risks reducing co-workers' commitment.
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### **Education and continuing training**

It is important that all co-workers have an understanding of the statutory requirements of a government agency and the role of a government employee. Two tools to achieve this are education and continuing training. The lessons learned when it comes to training are the following:

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- Public administrations must ensure that introductory training gives co-workers the knowledge and tools they need to be secure in the role of government employee.
  - All civil servants can be faced with situations where the principles of the central government basic values are in opposition. Dilemma exercises can be used as a tool to prepare for such situations. For dilemma exercises to be meaningful, they must be adapted to the operations and the specific situations the co-workers may be faced with.
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### **Shared responsibilities are necessary for emphasis on both structure and culture**

The 2021 study from the Swedish Agency for Public Management described preconditions for a good administrative culture in Swedish public administration, making them somewhat context bound. However, the answers we received in our survey and the interviews that we conducted within the scope of this study indicate that similar challenges arise in public administrations Europe-wide, as they take on the task of promoting basic values for civil servants. This also leads to similar experiences and lessons learned concerning the ways forward on this issue. Overall, our interviews point to the importance of responsibility-sharing in order to couple means of securing both structure and culture in the work to promote basic values. Our observations are summarised below.

### **The political will is essential**

Several representatives of the countries that we have interviewed stress that policy makers need to emphasise the importance of basic values and adherence. Some interviews show that there are examples of countries where political leadership started to recognise the importance of basic values, either as a result of general trends or as a reaction to external pressure, from civil society or the media. This, in turn, has led to accelerated action in the fields of integrity, anti-corruption and good administration.

Some of our interviews point to the opposite and provide us with examples of where political leadership is perceived as not putting enough emphasis on basic values. In these countries, basic values are viewed as only present in the background and not an essential part of the public debate.

Political will is directly instrumental in values promotion in that the political level has direct control over the legislative process. Some of the civil servants that we interviewed stress that integrity and similar concepts need to be embedded in legislation and part of a thought-through infrastructure in order to be implemented in a coherent way throughout public administrations.

### **Organisations are the anchor for continuity**

In several interviews, representatives of public administrations in European countries shared insights into the role of a functional organisational infrastructure, that allows for a common understanding of basic values among all civil servants. Organisations need to be part of an overall structure that serves to treat values promotion as a necessary tool for a good administration. This also means that organisational units that are tasked with promoting basic values need to be given enough resources and visibility in order to be successful in their work. While some of the public servants that we have interviewed regard their responsible organisations as reasonably visible, all conclude that basic values promotion can be furthered within their public administrations. This can be done with even more emphasis from political leadership and top managers on good administration and the concepts that underpin it.

As seen in the study from the Swedish Agency for Public Management, organisations can also play a role in providing continuity to basic values promotion, in that they provide the setting for strategic documents and plans. These types of documents need to have continuity, in order to make sure that values promotion activities are not one-off occurrences and limited in time.

### **Civil servants need to set an example**

The study from the Swedish Agency for Public Management sheds light on the fact that managers hold a larger responsibility in realising the basic values as standard procedure in their organisations. Nevertheless, the responsibilities of managers and employees interact in a greater context that, ultimately, serves to provide citizens with the best possible administration. Several of our respondents point to the need for constant dialogue within an organisation as the primary tool for recognising obstacles and finding a common understanding of what it means to be a civil servant. Our study shows that countries indeed apply several tools to ensure that this type of discourse takes place. Hopefully, this study can provide further inspiration and examples in this regard.



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## Annex 1

### How this study was conducted

Our study was based primarily on a web survey, interviews and gathering of input from relevant documents and literature. We describe our methods in the following. This annex also contains information on the timeline for the study and the composition of the group that carried it out.

#### Web survey

We conducted a web survey among member states of the European Public Management Network, EUPAN. EUPAN is an informal network for ministries and agencies responsible for public administration in the member states of the European Union and observer countries. The European Commission also participates in the network.

Our survey contained 8 open-ended questions and was sent to all 34 member states of EUPAN in the end of October 2022. By the end of November, 24 countries had answered the survey, resulting in a response rate of 71 percent. We have received answers from the following countries: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Latvia, Luxembourg, Malta, the Netherlands, Norway, Poland, Portugal, Serbia, Slovenia, Sweden and Switzerland.

#### Interviews

Partly based on the answers we received in the survey, we selected five countries for follow-up interviews: Belgium, Croatia, Estonia, Luxembourg and Portugal. We also took into account length of membership and geographical dispersion in our selection, in order to ensure a diverse representation of member states. The purpose of the interviews was to gain more insight into the answers provided by the countries in our web survey. We also held an interview with representatives of Directorate-General for Human Resources and Security of the European Commission (DG-HR), in order to ensure representation of the Commission as a member of EUPAN in the survey.

### **Input from relevant literature**

The concept of good administration is used in both EU and national law. It is also subject to discourse in both follow-ups and academic publications. In this study, we have gathered input from several types of literature, in order to illustrate various aspects of the term good administration. A list of written sources can be found in the end of this publication.

### **Time and resources**

This study was carried out between August of 2022 and March of 2023 by Victor Glückman and Nejra Wiklund (project manager). Preliminary results and choice of methods were discussed with a reference group of analysts at the Swedish Agency for Public Management. A final version of the study was also reviewed by two members of academia.

## Annex 2

### Survey questions

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1. What (fundamental) values are associated with good administration in your country? Please provide concrete examples and describe.
  2. Where can these values/written principles concerning ethical standards be found (i.e. are they formulated in your country's constitution, other legislation, codes of conduct for the entire public administration or certain parts of it)?
  3. Please describe whether these fundamental values apply to the entire public administration or to certain parts of it (such as certain professional groups, different categories of employees, levels of leadership).
  4. Are there any institutions in your country that are responsible for promoting these values (such as the government or other public bodies)? (Yes/No)

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- a. What are these institutions? Please provide concrete examples and describe.
  - b. Please describe what instruments the responsible institution uses to promote the fundamental values (it could be learning activities, dialogue, steering, etc.).
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5. Please describe and provide concrete examples of how public bodies are expected to live up to these fundamental values (e.g. whether they are expected to implement the values in internal rules and regulations, whether they are expected to promote the values within their organisations, whether they are expected to evaluate and report back on their work to promote these values).
6. Has there been any evaluations of the work to promote fundamental values in your public administration? (Yes/No/Don't know)

7. If yes, please provide one concrete example and describe
  8. Have you identified any challenges relating to the work to promote fundamental values in your public administration? (Yes/No/Don't know)
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- a. Please describe some of the challenges you have identified relating to the work to promote fundamental values in your public administration.
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