

**ReNEUAL Model Rules on EU Administrative Procedure
2026 Revisions for Automated Procedures**

Book II – Administrative Rulemaking

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Book II – Administrative Rulemaking

A. Introduction to Book II 2026 Revisions for Automated Procedures

- (1) At the time of publication of Book II in 2014 it addressed rule-making procedures by the EU authorities acting in a traditional executive or administrative capacity, i.e. those that remain outside the formal legislative procedures provided for in EU law and with no digital footprint included. As in 2014 version the scope of the proposed rules is not limited to rule-making by the Commission but also the making of other legally binding non-legislative acts of general application by other EU institutions, bodies, offices and agencies (see Article II-1).
- (2) The model rules we proposed then have been now revised to include the use of automated systems, and to some extent the use of AI, in the adoption of legally binding non-legislative rule-making. We are aware that the details of this use may often not be publicly revealed or known and the 2026 version makes important contributions to counter a secrecy creep in this regard in two significant regards: first, by including details of automated data processing systems at key points of the procedure. Second, by imposing (Art II-2) an obligation on EU authorities to make drafts public on a central website that includes that information. The implication here is that this will be timely and accessible to the public and broader civil society. This is a significant inclusion as very often this information is not (publicly) provided or known. Where provision is made for impact assessments, it is made mandatory in 2026 to include assessment of the impact of the use of automated systems in future projected implementation. After consultation the reasoned report drawn up by the EU authority must in the 2026 rules include proper explanation of the role (and principal elements) of automated data processing systems (if used) which influence the content of the act proposed.
- (3) The 2026 rules thus adapts the pre-existing procedural rules to take account of evolving decision-making realities, given that EU public administrations are indeed already using (fully) automated and semi-automated decision making systems.

General principles of EU administrative law, in particular, the ‘duty of care’ (full and impartial assessment of all relevant facts), are applied also in procedures leading to the adoption of non-legislative acts of general application by fully automated or semi-automated means. In line with the 2014 version, the rules we propose do not apply where no (formal) administrative procedure exists. We are aware that automated systems may be used, with important normative consequences, in instances where formal procedures may not occur. Despite this limitation, the model rules below set best practices and provide a starting point of discussion for extending the scope of legal protection of fundamental rights also in informal rulemaking processes, where applicable.

- (4) These important additions to the 2026 Model Rules are cumulative and, as further specified in the explanations below, are designed to further foster the overall legitimacy and the protection of fundamental rights in the automated contexts in which EU level public administration in a wider sense takes place and is fast evolving also with AI systems.

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B. Model Rules¹

II-1 Scope

(1) Book II applies to the procedures leading to the establishment, amendment and repeal of legally binding non-legislative acts of general application, including:

- (a) acts adopted by the Commission or the Council under Articles 290 and 291 TFEU;
- (b) legally binding non-legislative acts of the EU authorities adopted on the basis of Treaty provisions or legislative acts.

(2) Book II also applies to preparatory acts by EU authorities leading to the establishment, amendment and repeal of Acts in the sense of Paragraph 1 of this Article.

(3) Book II does not apply to acts of the Court of Justice of the European Union when acting in its judicial capacity.

II-2 Initiative

An EU authority planning an act mentioned in Article II-1 shall make public **on a central website**

- (a) the draft title of the planned act;
- (b) a short description of its objective and its legal basis;
- (c) the name of the EU authorities in charge of drafting the act;
- (d) **the details of automated data processing systems to be used.**

II-3 Preparation of the Draft Act

(1) The EU authority in charge of drafting the act shall:

- (a) carefully and impartially examine the relevant aspects;
- (b) undertake an assessment of the societal and economic impact of the act, as well as its impact on fundamental rights and on other values protected under EU law, such as the environment, **and an assessment of the impact of the prospective use of automated data processing systems for implementing the act.** Impact assessment may include a cost-benefit analysis;

¹ Provisions added to the [2014/2017 version of ReNEUAL Model Rules Book I](#) are highlighted. We have based our work on the English version of the Model Rules published by Oxford University Press in 2017, which includes some minor changes compared with the version originally published online in 2014.

- c) write an accompanying explanatory memorandum including the impact assessment, explanation of the reasons for the choices made and their alternatives.
- (2) If experts or interest groups are heard in the preparatory phase of drafting the act, the explanatory memorandum shall name them and publish their supporting documents indicating the source of such materials.

II-4 Consultation and Participation

- (1) The EU authority in charge of establishing, amending or repealing the act, shall give effect to the obligations in Article 11 TEU by consultation in accordance with the following paragraphs.
- (2) The draft act and the explanatory memorandum shall be published on a central EU website for consultations and shall
- (a) be accompanied by an open invitation to any person to electronically submit comments in any of the official languages of the Union;
 - (b) contain information about the adoption procedure, including the deadline for submissions which cannot be shorter than twelve weeks after publication;
 - (c) in an annex contain studies, data and other supporting material used for the drafting of the act including the impact assessment; and
 - (d) be made available in at least those languages which the EU authority in charge of drafting the act has identified as its working languages.
- (3) The EU authority in charge of drafting the act may also identify and address persons who are likely to be affected by the draft act and invite them to comment.
- (4) Comments are made public in a way that allows public exchange of views. Natural persons have the right to request their identity to be concealed in duly justified cases. **There must be proof that the participant is not an artificial device.**
- (5) Where the comments lead to the necessity of substantial revision of the initial draft act, the EU authority in charge of drafting the act must consider whether a new phase of consultation under paragraphs 1-4 of this article is necessary.

II-5 Reasoned Report

(1) After consultation, the EU authority in charge of drafting the act shall create a reasoned report which

- (a) shall be published in the languages referred to in Article II-4(2)(d), shall consist of the explanatory memorandum as well as the material listed in Article II-4(2)(c) and shall explain whether and how comments which were made during the consultation were taken into account or, as the case may be, why they were disregarded;
- (b) shall be sufficiently reasoned to enable effective administrative and judicial review.

(1a) Where automated data processing systems materially influence the content of the act, the report must also provide a clear and meaningful explanation as to the role of these systems and specify the principal factors on which they are based.

(2) The reasoned report shall add specific mention of changes made to the initial draft act

- (a) following consultations with the Council and the European Parliament under Article 290 TFEU or
- (b) following consultations with the committee defined in the legal act establishing the power to adopt an implementing act under Regulation No 182/2011 and Article 291 TFEU.

II-6 Expedited Procedures

(1) Under the expedited procedure, the EU authority in charge of drafting the non-legislative act of general application may proceed to adopt and temporarily put into place an act without prior notification and consultation of the public. In that case, the EU authority in charge of drafting the act

- (a) shall make public that the act has been adopted by the expedited procedure and give reasons;
- (b) shall start the consultation and participation procedure under Article II-4 within a period of four weeks after the adoption of the act. After consultation the EU authority in charge of drafting the regulatory act will undertake the necessary amendments.

(2) An act adopted by means of the expedited procedure is valid for a maximum duration of eighteen months after its adoption.

C. Explanations of the 2026 Revisions for Automated Procedures²

- (1) The overall rationale of the 2026 revisions to include adaptations of further automation of procedures arises from the explanations to Book I. The specific changes under the 2026 revisions to Book II are the following.

II-2 Initiative

- (2) The growing number and diversity of EU institutions, offices, bodies and agencies involved in administrative rule-making procedures risk a lack of visibility and, thus, transparency of ongoing or planned rule-making procedures. The existing practice of the Commission for participation and feedback procedures is managed through a central “have your voice website”. In accord with this practice, the requirement for concentrating information about rule making procedures is that the “details of automated data processing systems to be used” are included. On the one hand, this represents the anticipation of the requirement that was already included for consultation under the 2014 Model Rules.
- (3) The new Article II-2(d) is an essential condition to avoid the secrecy creep that the use of automated systems in rulemaking procedures may entail and preserve the conditions of deliberation that any public rulemaking procedure should entail.
- (4) The automated data processing systems now mentioned in Article II-2(d) entail all those that can be used at various steps in the procedure such as, in the formulation of the rule, or, in the analysis of participation and feedback.

II-3 Preparation of the Draft Act

- (5) Article II-3(1)(b) sets out the requirements of impact assessments in non-legislative rulemaking. The 2026 revisions add the specification that such impact

² Only explanations regarding new provisions are published here. Other explanations remain in the 2014 version of ReNEUAL Model Rules Book II.

assessments shall also include “an assessment of the impact of the prospective use of automated data processing systems for implementing the act.” This refers explicitly to the automation used in the actual implementation of the rule, not in its drafting.

- (6) Such systems are held to a specific impact assessment requirement in order to ensure that the sourcing, processing and further use of data and information therein is made transparent, that the effects and side-effects of such data and information processing are considered and that the changes to the procedure of implementing the rule resulting from automation are clearly considered with alternatives. The transparency is necessary as to the type of data and information, and the type of further use thereof, and covers situations where systems used are developed by the administration as well as those provided by external suppliers. Such automation may concern various types of implementation of an act, including automation subject to an authorisation under Book III-3a.

II-4 Consultation and Participation

- (7) A second sentence has been added to Article II-4(4) requiring that “[t]here must be proof that the participant is not an artificial device.” This is in line with the specification introduced in Book III-25(4), which, as noted there, embodies the precept that consultation/participation should be limited to real people only, excluding artificial devices. In the context of rule-making, this requirement is designed to protect deliberative discourse, since agentic AI systems are highly capable of flooding comments and feedback sites with artificially generated input. Such input not only makes it more difficult to discern real from artificial concerns or contributions. It also impedes deliberative discourse, since it hinders the public exchange of views required in the first part of Article II-4(4).

II-5 Reasoned Report

- (8) A clear and meaningful explanation of the possible material influence that automated systems may have in the content of the rules, and a specification of the principal factors on which those systems are based – now required by the addition

of Article II-5(1a) – is an essential component of avoiding the secrecy creep that the use of automated systems in rule-making may generate. Making public which systems were used in drafting the act, which influence they had and on which basis this input was prepared is a condition to ensure the transparency that must attend any rulemaking procedures of public significance.

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