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*(Acts whose publication is not obligatory)*

## EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS

### EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS DECISION

**of 11 February 2000**

**establishing a code of good administrative behaviour**

(2000/791/EC)

THE EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF  
LIVING AND WORKING CONDITIONS,

Having regard to Council Regulation (EEC) No 1365/75 of 26 May 1975 on the creation of a European Foundation for the Improvement of Living and Working Conditions and amending Regulation (EEC) No 1947/93,

Having regard to Council Regulation (EEC) No 1860/76 of 29 June 1976 laying down the Conditions of Employment of Staff of the European Foundation for the Improvement of Living and Working Conditions and amending Regulations (EEC) No 680/87, (EEC) No 1238/80 and (EEC) No 510/82,

Having regard to the provisions on openness in the Amsterdam Treaty, and in particular Article 1 of the Treaty on European Union and Article 21 of the European Community Treaty,

Having regard to the report of the Committee on Petitions of the European Parliament on its own activities in 1996 to 1997 <sup>(1)</sup>, in calling for a code of good administrative behaviour,

Having regard to the Resolution of the European Parliament of 16 July 1998 on the Annual Report on the activities of the European Ombudsman in 1997 (C4-0270/98) <sup>(2)</sup>,

Having regard to the own initiative inquiry of the European Ombudsman into the existence and the public accessibility, in the different Community institutions and bodies, of a code of good administrative behaviour for officials in their relations with the public,

Having regard to the Resolution of the European Parliament of 15 April 1999 on the Annual Report on the activities of the European Ombudsman in 1998 (C4-0138/99),

Having regard to the existing Code of conduct concerning public access to Foundation documents, contained in the Decision of the Administrative Board dated 21 November 1997 <sup>(3)</sup>,

Whereas the Amsterdam Treaty has explicitly introduced the concept of openness into the Treaty on European Union, by stating that it marks a new stage in the process of creating an ever closer union in which decisions are taken as openly as possible and as closely as possible to the citizen,

Whereas, in order to bring the administration closer to the citizen and to guarantee a better quality of administration, a code should be adopted which contains the basic principles of good administrative behaviour for officials when dealing with the public,

Whereas such a code is useful for both staff members, as it will inform them in a detailed manner of the rules they have to follow when dealing with the public, and the citizen, as it will provide her/him with information on the standard of conduct they are entitled to expect in dealings with the Community administrations,

Whereas such a code can only be efficient if it is a publicly accessible document for the citizen, and thus published in the form of a decision like the abovementioned Decision on public access to Foundation documents,

<sup>(1)</sup> A4 — 0190/97.

<sup>(2)</sup> OJ C 292, 21.9.1998, p. 168.

<sup>(3)</sup> OJ L 296, 17.11.1999, p. 25.

Whereas, in its Resolutions C4-0270/98 and C4-0138/99, the Parliament welcomed the initiative for a code of good administrative behaviour for the European institutions and bodies, and stressed the urgent need to draw up such a code as soon as possible,

Whereas the Parliament equally stressed the importance for such a code to be as identical as possible for all European institutions and bodies, to be accessible to all European citizens, and to be published in the *Official Journal of the European Communities*,

Considering it therefore desirable to establish a Code governing the principles of good administrative behaviour which staff members should respect in their relations with the public, and to make this code publicly available,

HAS DECIDED AS FOLLOWS:

#### Article 1

##### General provision

In their relations with the public, staff of the European Foundation for the Improvement of Living and Working Conditions shall respect the principles which are laid down in this Decision and which constitute the code of good administrative behaviour, hereafter referred to as 'the Code'.

#### Article 2

##### Personal scope of application

1. The Code shall apply to all staff members to whom the Staff Regulations apply, in their relations with the public.
2. The Foundation will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for it, such as persons employed under private law contracts, experts on secondment from national civil services and trainees.
3. The public refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

#### Article 3

##### Material scope of application

1. This Code contains the general principles of good administrative behaviour which apply to all relations of the Foundation's staff members with the public, unless they are governed by specific provisions.
2. The principles set out in this Code do not apply to the relations between the Foundation and its staff members. Those relations are governed by the Staff Regulations.

#### Article 4

##### Lawfulness

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

#### Article 5

##### Absence of discrimination

1. In dealing with requests from the public and in taking decisions, the staff member shall ensure that the principle of equality of treatment is respected. Members of the public shall be treated in a similar manner in relation to a similar issue.
2. If any difference in treatment is made, the staff member shall ensure that it is justified by the objective relevant features of the particular case.
3. The staff member shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, racial or ethnic origin, religion or belief, disability, age, or sexual orientation.

#### Article 6

##### Proportionality

1. When taking decisions, the staff member shall ensure that the measures taken are proportional to the aim pursued. The staff member shall in particular avoid restricting the rights of the citizens or imposing charges on them, when those restrictions or charges are not in a reasonable relation with the purpose of the action pursued.
2. When taking decisions, the staff member shall strike a fair balance between the interests of private persons and the general public interest.

#### Article 7

##### Absence of abuse of power

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

#### Article 8

##### Impartiality and independence

1. The staff member shall be impartial and independent. The staff member shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.
2. The staff member shall not be guided by any outside influences of whatever kind, including political influences, or by personal interests.

3. The staff member shall abstain from being involved in the taking of a decision on a matter concerning his or her own interests, or those of his or her family, relatives, friends and acquaintances.

#### *Article 9*

### **Objectivity**

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

#### *Article 10*

### **Legitimate expectations and consistency**

1. The staff member shall be consistent in his own administrative behaviour as well as with the administrative action of the Foundation. The staff member shall follow the Foundation's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

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

#### *Article 11*

### **Fairness**

The staff member shall act fairly and reasonably.

#### *Article 12*

### **Courtesy**

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

2. If the staff member is not responsible for the matter concerned, he or she shall direct the citizen to the appropriate staff member.

3. If an error occurs which negatively affects the rights or interests of a member of the public, the staff member shall apologise for it.

#### *Article 13*

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

The staff member shall recognise the right of every citizen of the Union or any member of the public who writes to the Foundation in one of the Treaty languages to receive an answer in the same language.

#### *Article 14*

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

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

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

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

#### *Article 15*

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

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

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

#### *Article 16*

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

1. In cases where the rights or interests of individuals are involved, the staff member shall ensure that, at every stage in the decision-making procedure, the rights of defence are respected.

2. Every member of the public shall have the right, in cases where a decision affecting his or her rights or interests has to be taken, to submit written comments and, when needed, to present oral observations before the decision is taken.

#### *Article 17*

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

1. The staff member shall ensure that a decision on every request or complaint to the Foundation is taken within a reasonable time limit, without delay, and in any case no later than two months from the date of receipt. The same rule shall apply for answering letters from members of the public.

2. If a request or a complaint to the Foundation cannot, because of the complexity of the matters which it raises, be decided upon within the abovementioned time limit, the staff member shall inform the author thereof as soon as possible. In that case, a definitive decision will be notified to the author in the shortest time.

*Article 18***Duty to state the grounds of decisions**

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

*Article 19***Indication of the possibilities of appeal**

1. A decision of the Foundation which may adversely affect the rights or interests of a private person shall contain an indication of the appeal possibilities available for challenging the decision. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the timelimits for exercising them.
2. Decisions shall in particular refer to the possibility of judicial proceedings and complaints to the Ombudsman under the conditions specified in, respectively, Articles 230 and 195 of the Treaty establishing the European Community.

*Article 20***Notification of the decision**

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

*Article 21***Data protection**

1. The staff member who deals with personal data concerning a citizen shall respect the principles laid down in Directive 95/46/EC on the protection of individuals with regard to the processing of personal data and the free movement of such data.
2. The staff member shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorised persons.

*Article 22***Requests for information**

1. The staff member shall, when he or she has responsibility for the matter concerned, provide members of the public with the information that they request. The staff member shall take care that the information communicated is clear and understandable.
2. If an oral request for information is too complicated or too comprehensive to be dealt with, the staff member shall advise the person concerned to formulate his or her demand in writing.
3. If, because of its confidentiality, an official may not disclose the information requested, he or she shall, in accordance with Article 18 of this Code, indicate to the person concerned the reasons why he cannot communicate the information.
4. Further to requests for information on matters for which he has no responsibility, the staff member shall direct the enquirer to the competent person and indicate his or her name and telephone number. Further to requests for information concerning another Community institution or body, the staff member shall direct the enquirer to that institution or body.
5. Where appropriate, the staff member shall, depending on the subject of the request, direct the person seeking information to the service of the Foundation responsible for providing information to the public.

*Article 23***Requests for public access to documents**

1. Further to requests for access to documents of the Foundation, the staff member shall give access to these documents in accordance with the Decision of the Foundation concerning public access to Foundation documents <sup>(1)</sup>.
2. If the staff member cannot comply with an oral request for access to documents, the citizen shall be advised to formulate it in writing.

*Article 24***Keeping of adequate records**

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

*Article 25***Public access to the Code**

1. The Foundation will take the necessary measures in order to ensure that this Code enjoys the widest possible publicity amongst the citizens.
2. The Foundation will provide a copy of this Code to any citizen who requests it.

<sup>(1)</sup> OJ L 296, 17.11.1999, p.25.

*Article 26***Right to complain to the European Ombudsman**

Any failure of a staff member to comply with the principles set out in this Code may be the subject of a complaint to the European Ombudsman in accordance with Article 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman <sup>(1)</sup>.

*Article 27***Revision**

This Decision shall be reviewed after two years of operation. In 2002, the Director of the Foundation shall submit a report to the Administrative Board on the implementation of this

Decision for the period 12 February 2000 to 11 February 2002, in preparation for that review.

*Article 28***Entry into force**

This Decision will take effect from 12 February 2000. It will be published in the *Official Journal of the European Communities*.

Done at Brussels, 11 February 2000.

*For the Bureau*

Marc BOSNIEL

*Vice President*

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<sup>(1)</sup> Decision 94/262/ECSC, EC, Euratom of the European Parliament of 9 March 1994 on the regulations and general conditions governing the performance of the Ombudsman's duties (OJ L 113, 4.5.1994, p. 15).