
Decision n°: 2015/10

SUBJECT : Adoption of the Code of Good Administrative Behaviour

THE MANAGEMENT BOARD OF THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

HAVING REGARD to the Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights, and in particular Articles 12(6), 15(4) and 24(2),

HAVING REGARD to the need to ensure the highest possible standards in the Agency's administrative practices,

HAS ADOPTED the following Code of Good Administrative Behaviour:

Article 1 - Quality service

The staff has a duty to serve the purpose of the European Union Agency for Fundamental Rights (hereafter referred to as "the Agency") expressed in Council Regulation 168/2007 and, in so doing, the public interest.

The public legitimately expects quality service and an administration that is open, accessible and properly run.

Quality service calls for the staff to be courteous, objective, impartial and fair.

Article 2 - Purpose

The purpose of the Code is intended to guide the staff of the Agency in their relations with the public and to inform the public of the standard of conduct they are entitled to expect in dealings with the Agency.

Article 3 - General provision

In their relations with the public, any agent and other servant of the Agency shall respect the principles which are laid down in this Decision and constitute the Code of Good Administrative Behaviour, hereafter referred to as "the Code".

Article 4 - Scope

The Code shall apply to all agents and other servants to whom the Staff Regulations and the Conditions of employment of other servants apply, in their relations with the public.

The provisions set out in this Code also apply to other individuals working for the Agency, such as persons employed under private law contracts, experts on secondment from national civil services and interns. Any individual who is covered by the scope of the Code is hereafter referred to as "agent".

“Individual” refers to natural and legal persons, whether they reside or have their registered office in a Member State or not.

This Code contains the general principles of good administrative behaviour, which apply to all relations of the Agency’s staff with any individual, unless they are governed by specific provisions.

This Code does not apply to relations between the Agency and its staff. Those relations are governed by the Staff Regulations and the Rules applicable to other servants of the European Union.

Article 5 - Lawfulness

The agent shall act according to law and apply the rules and procedures laid down in applicable law. The agent shall in particular take care that decisions which affect the rights or interests of any individual have a basis in law and that their content complies with the law.

Article 6 - Principle of non-discrimination

In dealing with requests from any individual and in taking decisions, the agent shall ensure that the principle of equality of treatment is respected. Any individual who is in the same situation shall be treated in an equal manner.

If any difference in treatment is made, the agent shall ensure that it is justified by a difference made in the applicable law or by an objective, relevant difference of the particular case within the limited scope of discretion given to the agent.

The agent shall in particular avoid any unjustified discrimination between individuals based on nationality, sex, racial or ethnic origin, religion or belief, disability, age, residence or sexual orientation.

Article 7 - Proportionality

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

When taking decisions, the agent shall strike a fair balance between the interests of members of the public and the general public interest.

Article 8 - Absence of abuse of power

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

Article 9 - Impartiality and independence

The agent shall be impartial and independent. The agent shall abstain from any arbitrary action adversely affecting any individual, as well as from any preferential treatment on any grounds whatsoever.

The agent shall not be guided by any outside influences of whatever kind, including political influences, or by personal interests.

The agent 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 10 - Objectivity

When taking decisions, the agent 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. The conduct of agents shall never be guided by personal or national interest or political pressure.

Article 11 - Legitimate expectations and consistency

The agent shall be consistent in his or her own administrative behaviour as well as with the administrative action of the Agency. The agent shall follow the Agency's administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

The agent shall respect the legitimate and reasonable expectations that members of the public have in the light of how the Agency has acted in the past. Any departure from past practices must be duly justified.

Article 12 - Fairness

The agent shall act fairly and reasonably.

Article 13 - Courtesy

The agent shall be service-minded, correct, courteous and accessible in relations with others. When answering correspondence, telephone calls and e-mails, the agent shall try as much as possible to be helpful and to reply to the questions which are asked. If the agent is not responsible for the matter concerned, he or she shall direct the concerned individual to the appropriate agent or other servant.

If an error occurs which negatively affects the rights or interests of an individual, the agent shall apologize for it.

Article 14 - Obligation to transfer to the competent service of the Agency

If a request or a complaint to the Agency is addressed or transmitted to a department or sector which has no competence to deal with it, its services shall ensure that the file is transferred without delay to the competent service of the Agency.

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

Article 15 - Right to be heard and to make statements

In cases where the rights or interests of individuals are involved, the agent shall ensure that, at every stage in the decision-making procedure, the concerned individual is heard.

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 before the decision is taken.

Article 16 - Reasonable time-limit for taking decisions

The agent shall ensure that a decision on every request or complaint to the Agency is taken within a reasonable time limit, without delay, and in any case no later than two months from the date of receipt of the request or complaint.

In any case, in accordance with Article 21 of the present Code, a reply or a holding reply to a request or complaint shall be sent within 15 working days from the date of receipt of the request or complaint.

If a request or a complaint to the Agency cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time limit, the agent or other servant shall inform the author thereof as soon as possible. In that case, a definitive decision should be notified to the author in the shortest time.

Article 17 - Duty to state the grounds of decisions

Every decision or recommendation of the Agency which may adversely affect the rights or interests of a private individual shall state the grounds on which it is based by indicating clearly the relevant facts and the legal basis of the decision.

The agent shall avoid making decisions which are based on brief or vague grounds or which do not contain individual reasoning.

If it is not possible, because of the large number of individuals concerned by similar decisions, to communicate in detail the grounds of the decision and where standard replies are therefore made, the agent shall guarantee that he or she subsequently provides the individual who expressly requests it with a specific reasoning.

Article 18 - Indication of the possibilities of appeal

A decision or recommendation of the Agency which may adversely affect the rights or interests of a private individual shall contain an indication of the appeal possibilities available for challenging the decision or recommendation. It shall in particular indicate the nature of the remedies, the bodies before which they can be exercised, as well as the time limits for exercising them.

Article 19 - Notification of the decision or recommendation

The agent shall ensure that decisions or recommendations which affect the rights or interests of individuals are notified in writing, as soon as the decision has been taken, to the individual or individuals concerned.

The agent shall abstain from communicating the decision to other sources until the individual or individuals concerned have been informed.

Article 20 - Requests for documents

If a document has already been published, the individual making the enquiry will be directed to the documentation or information centres which provide free access to documents. Many documents are also easily accessible in electronic form. The rules on access to documents are laid down in a specific measure (MB Decision 2012/10 on Public Access to Documents of 14 December 2012).

Article 21 - Correspondence

The agent shall ensure, if possible, that any individual who writes to the Agency in one of the Treaty languages receives an answer in the same language.

A reply to a letter addressed to the Agency shall be sent within fifteen working days from the date of receipt of the letter by the responsible department. The reply should identify the individual responsible for the matter and state how he or she may be contacted.

If a reply cannot be sent within fifteen working days, and in all cases where the reply requires other work on it, such as interdepartmental consultation or translation, the member of staff responsible should send a holding reply, indicating a date by which the addressee may expect to be sent a reply in the light of this additional work, taking into account the relative urgency and complexity of the matter.

If the reply is to be drawn up by a department other than the one to which the initial correspondence is addressed, the individual making the enquiry should be informed of the name and office address of the individual to whom the letter has been passed.

These rules do not apply to correspondence which can reasonably be regarded as improper, for example, because it is repetitive, abusive and/or pointless. Then the Agency reserves the right to discontinue any such exchanges of correspondence.

Article 22 - Telephone communication

When answering the telephone, staff shall identify themselves or their department. They shall return telephone calls as promptly as possible.

Staff replying to enquiries shall provide information on subjects for which they have direct responsibility and should direct the caller to the specific appropriate source in other cases. If necessary, they should refer callers to their superior or consult him or her before giving the information.

Where enquiries concern areas for which staff are directly responsible, they shall establish the identity of the caller and check whether the information has already been made public before giving it out.

If this is not the case, the member of staff may consider that it is not in the Union interest for the information to be disclosed. In this case he or she should explain why they are unable to disclose it and refer in appropriate cases to the obligation to exercise discretion as laid down in Art 17 of the Staff Regulations.

When appropriate, staff should request confirmation in writing of the enquiries made by telephone.

Article 23 - Electronic mail

Staff shall reply to e-mail messages promptly following the guidelines described in the section on telephone communication.

However, where the e-mail message is, by its nature, the equivalent of a letter, it shall be handled according to the guidelines for handling correspondence and shall be subject to the same deadlines.

Article 24 - Requests from the media

The Department of Communication and Outreach is responsible for contacts with the media. However, when requests for information concern technical subjects falling within their specific areas of responsibility, staff may answer them.

Article 25 - Data protection

The agent who deals with personal data concerning an individual shall respect the relevant provisions on data protection in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.

The agent shall in particular avoid processing personal data for non-legitimate purposes or the transmission of such data to non-authorized individuals.

Article 26 - Complaints

Any breach of the rules and principles set out in this Code may be the subject of a complaint to the Agency.

Members of the public may address their complaints to the Department of the Agency concerned or to the Agency's Director, who will forward it to the relevant Department. The Director or Head of Department will reply to the complainant in writing, within two months. If the complainant is not satisfied with the reply, he or she may apply within one month to the Director of the Agency to review the outcome of the complaint.

Members of the public are also entitled to lodge those complaints with the European Ombudsman in accordance with Art 195 of the Treaty establishing the European Community and the Statute of the European Ombudsman.

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Article 27 - Entry into Force

This decision shall enter into force immediately following its adoption by the Management Board of the Agency.

Article 28 - Repeal

This decision repeals the FRA MB Decision 2007/06 of 23 October 2007.

Vienna, 16.12.2015

For the European Union Agency for Fundamental Rights

A handwritten signature in blue ink, appearing to read 'F. Seidensticker'.

*Frauke Lisa Seidensticker
Chairperson of the Management Board*