II

(Acts whose publication is not obligatory)

EUROPEAN ENVIRONMENT AGENCY

EUROPEAN ENVIRONMENT AGENCY DECISION of 20 March 2000 establishing a code of good administrative behaviour for the Agency

(2000/529/EC)

THE EUROPEAN ENVIRONMENT AGENCY,

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 EC Treaty,

Having regard to the initiative taken by Roy Perry, rapporteur for the report of the Committee on Petitions on its own activities in 1996-1997 [1], 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) [2],

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 Commission documents, contained in Decision 94/90/ECSC, EC, Euratom [3],

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 the European Commission equally aims at reforming the procedures of the Community administration to fully implement this concept;

Whereas, in order to bring the administration closer to the citizens 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 the officials, as it will inform them in a detailed manner of the rules they have to follow when dealing with the public, and the citizens, as it will provide them 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 citizens, and thus published in the form of a decision like the abovementioned Decision on public access to Commission documents;

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;

[1] A4-0190/97.
[2] OJ C 292, 21.9.1998, p. 168.
[3] OJ L 46, 18.2.1994, p. 58.

Considering for also as specific legal basis of this Code of conduct the Council Regulation (EEC) No 1210/90 on the establishment of the European Environment Agency and the European information and observation network, Regulation that has been amended by the Council Regulation (EC) No 933/1999 of 29 April 1999, in particular Article 17: 'The staff of the Agency shall be subject to the Regulations and Rules applicable to officials and other servants of the European Communities', the 'Staff Regulations and the Conditions of Employment of other servants of the European Communities' and the Decision of the Management Board of the European Environment Agency on public access to the EEA documents of 21 March 1997 [4];

Considering it therefore desirable to establish a code governing the principles of good administrative behaviour which the EEA 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 Environment Agency 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 officials and other servants to whom the Staff Regulations and the conditions of employment of other servants apply, in their relations with the public. Hereafter the term official refers to both the officials and the other servants.

2. The European Environment Agency 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 European Environment Agency's officials 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 European Environment Agency and its officials. Those relations are governed by the Staff Regulations.

Article 4

Lawfulness

The official shall act according to law and apply the rules and procedures laid down in Community legislation. The official 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 official shall ensure that the principle of equality of treatment is respected. Members of the public who are in the same situation shall be treated in a similar manner.

2. If any difference in treatment is made, the official shall ensure that it is justified by the objective relevant features of the particular case.

3. The official 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 official shall ensure that the measures taken are proportional to the aim pursued. The official 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 official 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 official 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 8

Impartiality and independence

1. The official shall be impartial and independent. The official shall abstain from any arbitrary action adversely affecting members of the public, as well as from any preferential treatment on any grounds whatsoever.

[4] OJ C 282, 18.9.1997, p. 5.

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

3. The official 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 official 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 official shall be consistent in his own administrative behaviour as well as with the administrative action of the European Environment Agency. The official shall follow the Institution's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case.

2. The official shall respect the legitimate and reasonable expectations that members of the public have in the light of how the European Environment Agency has acted in the past.

Article 11

Fairness

The official shall act fairly and reasonably.

Article 12

Courtesy

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

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

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

Article 13

Reply to letters in the language of the citizen

The official shall ensure that every citizen of the Union or any member of the public who writes to the European Environment Agency in one of the Treaty languages receives an answer in the same language.

Article 14

Acknowledgement of receipt and indication of the competent official

1. Every letter or complaint to the Institution 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 official 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 pointless character.

Article 15

Obligation to transfer to the competent service of the Institution

1. If a letter or a complaint to the European Environment Agency is addressed or transmitted to a programme or unit 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 European Environment Agency.

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 official to whom the file has been passed.

3. If a letter or a complaint to the European Environment Agency is addressed for which the European Environment Agency is not competent to deal with its services shall ensure that the letter is transferred to the competent European body and inform the sender 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 official 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 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 official shall ensure that a decision on every request or complaint to the Institution 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 European Environment Agency cannot, because of the complexity of the matters which it raises, be decided upon within the abovementioned time limit, the official 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 18

Duty to state the grounds of decisions

1. Every decision of the European Environment Agency 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 official 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 official 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 European Environment Agency 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 time-limits 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 official 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 official shall abstain from communicating the decision to other sources until the person or persons concerned have been informed.

Article 21

Data protection

1. The official who deals with personal data concerning a citizen shall respect the principles laid down in the 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 official 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 official shall, when he or she has responsibility for the matter concerned, provide members of the public with the information that they request. The official 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 official shall advise the person concerned to formulate his 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 or she cannot communicate the information.

4. Further to requests for information on matters for which he or she has no responsibility, the official shall direct the requester 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 official shall direct the requester to that institution or body.

5. Where appropriate, the official shall, depending on the subject of the request, direct the person seeking information to the service of the Institution 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 European Environment Agency, the official shall give access to these documents in accordance with the Decision of the Management Board of the European Environment Agency on public access to EEA documents of 21 March 1997 ([5]).

2. If the official 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 European Environment Agency'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 European Environment Agency will take the necessary measures in order to ensure that this Code enjoys the widest possible publicity amongst the citizens. It will in particular ensure the spreading of a leaflet called 'The Code of good administrative behaviour of the European Environment Agency' which will contain a presentation of this Code and which will include its full text in an annex.

([5]) See footnote 4.

2. The European Environment Agency will provide a copy of this Code to any citizen who requests it.

Article 26

Right to complain to the European Ombudsman

Any failure of an official 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 ([6]).

Article 27

Revision

This Decision shall be reviewed after two years of operation. In 2002, the Executive Director shall submit a report on the implementation of this Decision in the period from 2000 to 2002, in preparation of that review to the European Ombudsman.

Article 28

Entry into force

This Decision is adopted by the Management Board of the European Environment Agency, on 20 March 2000 and will take effect as of 20 June 2000 after publication in the *Official Journal of the European Communities*.

Done at Copenhagen, 20 March 2000.

For the EEA Management Board
Kees ZOETEMAN
Chairman

For the European Environment Agency
Domingo JIMÉNEZ-BELTRÁN
The Executive Director

([6]) 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 European Ombudsman's duties, (OJ L 113, 4.5.1994, p. 15).