

# THE ETF CODE OF GOOD ADMINISTRATIVE BEHAVIOUR



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# INTRODUCTION

Good administration by the institutions, bodies, offices, and agencies of the European Union (the 'EU institutions') benefits all European citizens and residents.

It is of particular importance to persons who have direct dealings with the EU institutions.

Article 41 of the Charter of Fundamental Rights of the European Union sets the "Right to a good administration" as a fundamental right. As a result, everyone is legally entitled to good administration of his or her affairs by the EU institutions. In particular:

1. 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.
2. This right includes:
  - a. the right of every person to be heard, before any individual measure which would affect him or her adversely is taken;
  - b. 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;
  - c. the obligation of the administration to give reasons for its decisions.
3. Every person has the right to have the Union make good any damage caused by its institutions or by its servants in the performance of their duties, in accordance with the general principles common to the laws of the Member States.
4. Every person may write to the institutions of the Union in one of the languages of the Treaties and must have an answer in the same language.

In this context, the Code of Good Administrative Behaviour is a vital instrument for putting the principle of good administration into practice as it:

- helps individual citizens to understand and obtain their rights and to know what administrative standards they are entitled to expect from the EU institutions;
- promotes the public interest in an open, efficient, and independent European administration;
- serves as a useful guide for civil servants in their relations with the public by encouraging the highest standards of administration.



# THE ETF CODE OF GOOD ADMINISTRATIVE BEHAVIOUR

## Article 1

### General provision

In their relations with the public, the ETF and its agents (hereafter for the purpose of this Code referred to as “Staff”) shall respect the principles, which are laid down in this Code of Good Administrative Behaviour (hereafter referred to as “the Code”).

## Article 2

### Personal scope of application

1. The Code shall apply to all ETF Staff to whom the Staff Regulations and the Conditions of employment of other servants apply, in their relations with the public.
2. The ETF and its administration will take the necessary measures to ensure that the provisions set out in this Code also apply to other persons working for them, such as persons employed under private law contracts, experts on secondment from national civil services, and trainees.
3. The term “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 ETF and its administration 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 ETF and its Staff. Those relations are governed by the Staff Regulations.

## Article 4

### Lawfulness

The ETF Staff shall act according to law and apply the rules and procedures laid down in EU legislation. The Staff shall in particular take care to ensure 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 ETF Staff 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 ETF Staff shall ensure that it is justified by the objective relevant features of the particular case.
3. The ETF Staff shall in particular avoid any unjustified discrimination between members of the public based on nationality, sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age, or sexual orientation.

## Article 6

### Proportionality

1. When taking decisions, the ETF Staff shall ensure that the measures taken are proportional to the aim pursued. The ETF Staff 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 ETF Staff shall respect the 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 ETF Staff 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 ETF Staff shall be impartial and independent. The ETF Staff 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 conduct of the ETF Staff shall never be guided by personal, family, or national interest or by political pressure. The ETF Staff shall not take part in a decision in which he or she, or any close member of his or her family, has a financial interest.

## Article 9

### Objectivity

When taking decisions, the ETF Staff 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, consistency, and advice

1. The ETF Staff shall be consistent in his or her own administrative behaviour as well as with the administrative action of the institution. The ETF Staff shall follow the institution's normal administrative practices, unless there are legitimate grounds for departing from those practices in an individual case. Where such grounds exist, they shall be recorded in writing.
2. The ETF Staff shall respect the legitimate and reasonable expectations that members of the public have in light of how the institution has acted in the past.
3. The ETF Staff shall, where necessary, advise the public on how a matter, which comes within his or her remit is to be pursued and how to proceed in dealing with the matter.

## Article 11

### Fairness

The ETF Staff shall act impartially, fairly, and reasonably.

## Article 12

### Courtesy

1. The ETF Staff 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 to be as helpful as possible and shall reply as completely and accurately as possible to questions, which are asked.
2. If the ETF Staff 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 ETF Staff shall apologise for it and endeavour to correct the negative effects resulting from his or her error in the most expedient way and inform the member of the public of any rights of appeal in accordance with Article 19 of the Code.

## Article 13

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

The ETF Staff shall ensure that every citizen of the Union or any member of the public who writes to the institution in one of the Treaty languages receives an answer in the same language. The same shall apply as far as possible to legal persons such as associations (NGOs) and companies.

## Article 14

### Acknowledgement of receipt and re-direction

1. Every letter or complaint to the ETF 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 acknowledgement of receipt shall refer to the timing by which the substantive answer will be provided and shall indicate the name and the telephone number of the ETF Staff 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 to 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 ETF

1. If a letter or a complaint to the institution is addressed or transmitted to a Department 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 ETF.
2. The service which originally received the letter or complaint shall inform the author of this transfer and shall indicate the name and the telephone number of the ETF Staff to whom the file has been passed.
3. The ETF Staff shall alert the member of the public or organisation to any errors or omissions in documents and provide an opportunity to rectify them.

## Article 16

### Right to be heard and to make statements

1. In cases where the rights or interests of individuals are involved, the ETF Staff 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 ETF Staff 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 and for answers to administrative notes, which the ETF Staff has sent to his or her superiors requesting instructions regarding the decisions to be taken.
2. If a request or a complaint to the institution cannot, because of the complexity of the matters which it raises, be decided upon within the above mentioned time-limit, the ETF Staff shall inform the author as soon as possible. In such a case, a definitive decision should be communicated to the author in the shortest possible time.

## Article 18

### Duty to state the grounds of decisions

1. Every decision of the ETF, 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 ETF Staff shall avoid making decisions which are based on brief or vague grounds, or which do not contain an 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 sent, the ETF Staff shall subsequently provide the citizen who expressly requests it with an individual reasoning.

## Article 19

### Indication of appeal possibilities

1. A decision of the ETF, 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, and 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 263 and 228 of the Treaty on the Functioning of the European Union.

## Article 20

### Notification of the decision

1. The ETF Staff shall ensure that persons whose rights or interests are affected by a decision are informed of that decision in writing, as soon as it is taken.
2. The ETF Staff shall abstain from communicating the decision to other sources until the person or persons concerned have been informed.

## Article 21

### Data protection

1. The ETF staff who deals with personal data concerning a citizen shall respect the privacy and the integrity of the individual in accordance with the provisions of the [Regulation \(EU\) 2018/1725 of the European Parliament and of the Council of 23 October 2018](#) on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.
2. The ETF staff 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 ETF Staff shall, when he or she has responsibility for the matter concerned, provide members of the public with the information that they request. When appropriate, the ETF Staff shall give advice on how to initiate an administrative procedure within his or her field of competence. The ETF Staff shall take care that the information communicated is clear and understandable.
2. If an oral request for information is too complicated or too extensive to be dealt with, the ETF Staff shall advise the person concerned to formulate his or her demand in writing.
3. If an ETF Staff may not disclose the information requested because of its confidential nature, he or she shall, in accordance with *Article 18* Duty to state the grounds of decisions 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 ETF Staff shall direct the requester to the competent person and indicate his or her name and telephone number. Further to requests for information concerning another EU institution, the ETF Staff shall direct the requester to that institution.
5. Where appropriate, the ETF Staff 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. The ETF Staff shall deal with requests for access to documents in accordance with the rules adopted by the institution and in accordance with the general principles and limits laid down in [Regulation \(EC\) 1049/2001](#).
2. If the ETF Staff 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 ETF departments shall keep adequate records of their incoming and outgoing mail, of the documents, they receive, and of the measures, they take.

## Article 25

### Publicity for the Code

The ETF shall take effective measures to inform the public of the rights they enjoy under this Code. If possible, it shall make the text available in electronic form on its website.

## Article 26

### Right to complain

Any failure of the ETF or of an ETF staff 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 228 of the Treaty on the Functioning of the European Union](#).



# ANNEX 1

## PUBLIC SERVICE PRINCIPLES

Bearing the public service principles in mind can help ETF Staff and other persons working for them<sup>1</sup> to understand and apply rules and principles correctly, and guide them towards the right decision in situations where they should exercise judgement.

### Commitment to the European Union and its citizens

ETF Staff and other persons working for them should be conscious that the Union's institutions exist in order to serve the interests of the Union and of its citizens in fulfilling the objectives of the Treaties. They should act only to serve these interests.

ETF Staff and other categories of employees<sup>2</sup> should carry out their functions to the best of their abilities and strive to meet the highest professional standards at all times. They should be mindful of their position of public trust and set a good example to others.

### Integrity

ETF Staff and other persons working for them should be guided by a sense of propriety and conduct themselves at all times in a manner that would bear the closest public scrutiny. This obligation is not fully discharged merely by acting within the law.

ETF Staff and other persons working for them should not place themselves under any financial or other obligation that might influence them in the performance of their functions, including by the receipt of gifts. They should promptly declare any private interests relating to their functions.

ETF Staff and other persons working for them should take steps to avoid conflicts of interest and the appearance of such conflicts. They should take swift action to resolve any conflict that arises. This obligation continues after leaving office.

### Objectivity

ETF Staff and other persons working for them should be impartial, open-minded, guided by evidence, and willing to hear different viewpoints. They should be ready to acknowledge and correct mistakes.

In procedures involving comparative evaluations, ETF Staff and other categories of employees should base recommendations and decisions only on merit and any other factors expressly prescribed by law.

ETF Staff and other persons working for them should not discriminate or allow the fact that they like, or dislike, a particular person to influence their professional conduct.

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<sup>1</sup> Cf above **Article 2**

Personal scope of application of the ETF Code of Good Administrative Behaviour.

<sup>2</sup> Idem as above.

## Respect for others

ETF Staff and other persons working for them should act respectfully to each other and to citizens. They should be polite, helpful, timely, and co-operative.

They should make genuine efforts to understand what others are saying and express themselves clearly, using plain language.

## Transparency

ETF Staff and other persons working for them should be willing to explain their activities and to give reasons for their actions.

They should keep proper records and welcome public scrutiny of their conduct, including their compliance with these public service principles.