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**EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE
(CDDG)**

**FEASIBILITY STUDY ON THE PREPARATION OF A COUNCIL OF
EUROPE INDICATOR FRAMEWORK TO IDENTIFY TRENDS WITH
REGARD TO PUBLIC ETHICS**

For decision

Secretariat Memorandum
prepared by the
Directorate General of Democracy
Democratic Governance Department

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Introduction

1. The task

The terms of reference of the CDDG for the biennium 2018-2019 include specific task iii:

"As a follow-up to the findings of the good governance section of the Secretary General's Reports on the State of Democracy, Human Rights and the Rule of Law with regard to public ethics:

- *develop Guidelines on public ethics at all levels of government, taking into account the findings of GRECO and Committee of Ministers' Recommendation [Rec\(2000\)10](#) on Codes of Conduct for Public Officials;*
- *update the 2004 Handbook of good practice on public ethics at local level, taking into account experience with the implementation of the revised Public Ethics Benchmark Toolkit of the Centre of expertise on local government reform, and extend it to cover all levels of government – local, regional and national;*
- *carry out a feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics and to allow member States to assess their performance."*

Whilst the CDDG is asked to carry out a feasibility study, any decision on elaborating or not such a framework is up to the Committee of Ministers.

2. Summary of the discussions held by the CDDG and its structures

At its second meeting on 4-5 October 2018, the working group on Public Ethics discussed the aim and design of an indicator framework for public ethics and underlined that first it should be decided what the indicators should measure (implementation of public ethics measures in member States? the situation as regards public ethics?) and why (to enable self-assessment by member states? to advise member states on action to be taken?).

Members also recalled that this kind of indicator frameworks and the associated regular data collection and evaluation were costly and emphasised that the data gathered by other organisations, in particular the OECD and EUROSTAT, should be taken into account. Possibilities for cooperation with the OECD should be explored.

The working group suggested that the question of the feasibility study should be addressed by the CDDG Bureau, in the light of the above considerations.

The Bureau, at its meetings on 19 October 2018 and 23 May 2019 respectively, questioned whether it was fitting to invest in developing an indicator framework which would require further heavy investment in data collection and analysis indicating that possibilities for cooperation with other organisations such as the OECD should also be explored. Following an exchange of views, at its meeting of 23 May 2019, the Bureau agreed on the text of a short questionnaire to be sent to member States.¹

¹ The text of the questionnaire is in the Appendix
*Feasibility study on the preparation of a Council of Europe indicator framework to identify trends
 with regard to public ethics
 [CDDG(2019)10]*

At its fourth meeting on 16-17 September 2019, the working group on Public Ethics considered the replies to the questionnaire. A discussion ensued during which the working group instructed the Secretariat to draft a feasibility study summarising the gist of the discussions that the working group had had, the replies to the questionnaire, and indicating in what way the public ethics benchmark of the Centre of Expertise for Good Governance could be a reference to set up an indicator framework for the central authorities to use as a self-assessment tool.

Subsequently, by written procedure, the working group on public ethics agreed on the text of the draft feasibility study below. The text was also examined by the Bureau of the CDDG at its meeting on 24-25 October 2019. The Bureau instructed the Secretariat to submit the text of the draft feasibility study to the CDDG.

3. Action

The CDDG is invited to examine the draft feasibility study below, to consider modifications, if any, and approve it.

DRAFT FEASIBILITY STUDY

Index

1. Introduction
2. Council of Europe work on public ethics
 - 2.1. Standard-setting
 - 2.2. Monitoring
 - 2.3. Co-operation
3. Existing efforts to define indicator frameworks to assess public ethics
 - 3.1. OECD
 - 3.2. United Nations
 - 3.3. World Bank
4. Rating public attitudes towards corruption
 - 4.1. Transparency International
 - 4.2. The Eurobarometer
5. Benchmarking public ethics at the local level
 - 5.1. ELoGE
 - 5.2. Public Ethics Benchmarking (PEB)
6. Replies to the questionnaire
7. Proposal concerning a Council of Europe indicators framework

1. Introduction

Public ethics is crucial for the good functioning of democracy, the respect of the rule of law and the delivery of good governance. Trust in public institutions requires that those exercising public responsibilities, at all level of government and in all sectors, adhere to the highest standard of ethical conduct. Citizens' demands in this sense have become stronger in recent years and have brought the issue of public ethics to the forefront of the political debate in a number of Council of Europe member States.

Public ethics means placing the public good before private interests. It includes rejecting corruption and withdrawing from situations of conflict of interest but in a more general approach – which is the one which has been consistently followed by the Council of Europe – it means that all public officials should embody the fundamental principles of integrity, legality, openness and transparency, impartiality, objectivity, respect and non-discrimination. It also requires leadership in promoting an ethical culture within public organisations.

2. Council of Europe work on public ethics

2.1. Standard-setting

Public ethics standards are laid down in various documents, of different nature and originating from different Council of Europe bodies and institutions.

A core body of standards is set out in conventional texts, namely the two conventions against corruption.² Others are set out in Recommendations³ and Guidelines⁴ of the Committee of Ministers, Resolutions and Recommendations of the Parliamentary Assembly,⁵ Resolutions and Recommendations of the Congress of Local and Regional Authorities⁶ and various documents of the Venice Commission.⁷

² [Criminal law convention on corruption](#) (ETS No. 173) and [Civil law convention on corruption](#) (ETS No. 174)

³ [Recommendation \(2017\)2](#) of the Committee of Ministers on the legal regulation of lobbying activities in the context of public decision making; [Recommendation \(2014\)7](#) of the Committee of Ministers on the protection of whistle-blowers; [Recommendation \(2003\)4](#) of the Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns; [Recommendation \(2000\)10](#) of the Committee of Ministers on Codes of Conduct for Public Officials.

⁴ [Guidelines for preventing and combating sexism](#): measures for implementation (Appendix to Recommendation CM/Rec(2019)1, (section IIE, Public Sector)

⁵ [Resolution 2300](#) and [Recommendation 2162](#) (2019) on "Improving the protection of whistleblowers all over Europe"; [Resolution 2275 \(2019\)](#) on "Role and responsibilities of political leaders in combating hate speech and intolerance" (para. 13.2); [Resolution 2170](#) and [Recommendation 2105 \(2017\)](#) on "Promoting integrity in governance to tackle political corruption"; [Resolution 2060 \(2015\)](#) on "Improving the protection of whistleblowers".

⁶ [Recommendation 434](#) (2019) on "Financial compensation of local and regional elected representatives in the exercise of their office"; [Recommendation 428](#) (2019) on "Fighting nepotism within local and regional authorities"; [Resolution 435 \(2018\)](#) and [Recommendation 424 \(2018\)](#) on "Transparency and open government"; [Resolution 434 \(2018\)](#) and [Recommendation 423 \(2018\)](#) on "Conflicts of interest at local and regional level"; [Resolution 433 \(2018\)](#) on "European Code of Conduct for all Persons Involved in Local and Regional Governance"; [Recommendation 405 \(2017\)](#) on "Making public procurement transparent at local and regional levels".

⁷ [Joint Guidelines on preventing and responding to the misuse of administrative resources during electoral processes](#), adopted by the Venice Commission at its 106th session, Venice, 11-12 March 2016; [Report on exclusion of public offenders from parliament](#), adopted by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015); [Report on the scope and lifting of parliamentary immunities](#) adopted by the Venice Commission at its 98th plenary session (Venice, 21-22 March 2014); [Code of Good Practice in the field](#)
Feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics
[CDDG(2019)10]

In 2019, the CDDG will adopt Guidelines on public ethics, which are complemented by a practitioners' Guide. The personal scope of these documents will cover, for the first time, all public officials, be they elected, appointed or employed by a public organisation or entity.

2.2. Monitoring

GRECO is the Council of Europe body which evaluates the measures that are taken by member States to tackle corruption. Its work is country-specific and results in an evaluation report with recommendations. Within 18 months, the member State concerned should send a situation report which is examined by two GRECO rapporteurs to determine whether there has been full or partial compliance and whether a follow-up report is necessary. The compliance report is adopted by GRECO. For the purposes of this feasibility study it should be noticed that, for each recommendation included in the evaluation report, GRECO assesses whether it has been implemented in a satisfactory manner, partly implemented or not implemented.

GRECO's evaluation cycles focus on specific themes. Amongst the most pertinent for public ethics are the fourth cycle (launched in 2012) on *Prevention of corruption in respect of members of parliament, judges and prosecutors*, and the fifth cycle (launched in 2017) on *Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies*. Both address the following issues:

- ethical principles and rules of conduct,
- conflict of interest,
- prohibition or restriction of certain activities,
- declarations of assets, income, liabilities and interests,
- enforcement of the rules concerning conflict of interest,
- awareness.

2.3. Co-operation

The Council of Europe implements co-operation projects providing expert support in drafting legislation, guidelines and codes of ethics in respect of specific institutions or categories of public officials.⁸ In the context of some of these projects, indicators have been elaborated to assess progress. The Council of Europe also carries out capacity-building activities in this area, for instance through its Centre of Expertise for Good Governance.⁹

[of Political Parties](#) adopted by the Venice Commission at its 77th Plenary Session (Venice, 12-13 December 2008).

⁸ [Support to the implementation of the judicial reform in Armenia](#)"; [Accountability of the Judicial system in Montenegro](#)"; [Strengthening the capacity of the High School of Justice of Georgia](#)" and [Support to the implementation of the judicial reform in Georgia](#)"; [Strengthening legal guarantees for independent and impartial tribunals in Serbia](#)"; [Strengthening judicial ethics in Turkey](#)" and "Consolidating ethics in the public sector in Turkey"; [Support to the implementation of the judicial reform in Ukraine](#)".

⁹ See below 5.1 and 5.2

Feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics
[CDDG(2019)10]

3. Existing efforts to define indicator frameworks to assess public ethics

3.1. OECD

The OECD works extensively on the issues of integrity and anti-corruption and cooperates with the Council of Europe, namely with GRECO, in this domain. In 2016 it carried out a *Survey on Public Sector Integrity*, collecting information on member and partner countries' public sector integrity systems. The focus was on selected principles which were subsequently included in the OECD Recommendation of the OECD Council on Public Integrity (2017).¹⁰

The results of the survey are included in the ***OECD dataset on Public Sector Integrity***.¹¹ It is based on the replies to a questionnaire which covered the following aspects:¹²

- Section 1 - Coherent and comprehensive integrity systems: a mapping of the main institutions responsible for designing and implementing various integrity policies as well as their mandates and functions.
- Section 2 - Monitoring and evaluation of integrity policies: the extent to which countries have in place coherent evaluation frameworks to assess the effectiveness and impact of integrity policies, as well as mechanisms to monitor implementation.
- Section 3 - Risk mapping and control: the extent to which countries assess integrity risks, as well as mitigate these risks through both internal and external controls.
- Section 4 - Future OECD work on integrity: a short section asking countries to indicate their interest for further OECD work on areas of the draft Recommendation.

An analysis of the survey's results was used to inform the chapter on Public Sector Integrity in OECD's *Government at a Glance 2017*.¹³ The questionnaire, which is public but is protected by copyright, can be used as a source of inspiration for a Council of Europe indicators framework.

3.2. United Nations

The United Nations have undertaken an effort to identify indicators to measure progress towards achieving the Sustainable Developments Goals (SDGs). A specific intergovernmental process was set up to this end, which led to the identification of a set of 232 global indicators by an Inter-agency and Expert Group on SDG Indicators (IAEG-SDGs). 23 indicators were identified for **SDG 16**, *Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels*.¹⁴ The table below provides an extract of the targets and indicators relevant for public ethics.

¹⁰ <http://www.oecd.org/gov/ethics/OECD-Recommendation-Public-Integrity.pdf>

¹¹ https://qdd.oecd.org/subject.aspx?Subject=GOV_INT

¹² <http://www.oecd.org/gov/2016-OECD-Survey-on-Public-Sector-Integrity.pdf>

¹³ <http://www.oecd.org/gov/qovata glance.htm>

¹⁴ <https://sustainabledevelopment.un.org/sdq16>

Targets	Indicators
<p>16.5 Substantially reduce corruption and bribery in all their forms</p>	<p>16.5.1 Proportion of persons who had at least one contact with a public official and who paid a bribe to a public official, or were asked for a bribe by those public officials, during the previous 12 months</p> <p>16.5.2 Proportion of businesses that had at least one contact with a public official and that paid a bribe to a public official, or were asked for a bribe by those public officials during the previous 12 months</p>
<p>16.6 Develop effective, accountable and transparent institutions at all levels</p>	<p>16.6.1 Primary government expenditures as a proportion of original approved budget, by sector (or by budget codes or similar)</p> <p>16.6.2 Proportion of the population satisfied with their last experience of public services</p>

3.3. World Bank

The World Bank implements the **Worldwide Governance Indicators (WGI)** project, which is based on aggregate and individual governance indicators for over 200 countries and territories over the period 1996–2018, for six dimensions of governance, including Rule of law and Control of corruption.¹⁵ As the authors of the research explain: *'The six composite WGI measures are useful as a tool for broad cross-country comparisons and for evaluating broad trends over time. However, they are often too blunt a tool to be useful in formulating specific governance reforms in particular country contexts. Such reforms, and evaluation of their progress, need to be informed by much more detailed and country-specific diagnostic data that can identify the relevant constraints on governance in particular country circumstances'*.¹⁶

4. Rating public attitudes towards corruption

4.1. Transparency International

Since 1995, Transparency International publishes the **Corruption Perceptions Index**,¹⁷ which ranks countries according to their perceived public sector corruption. The ranking is based on expert assessments and opinion surveys. It does not provide conclusive information on the extent of corruption but an illustration of the perception by the public opinion.

¹⁵ <http://info.worldbank.org/governance/wgi/> The list of indicators for each dimension can be found here: <http://info.worldbank.org/governance/wgi/Home/Documents>

¹⁶ <http://info.worldbank.org/governance/wgi/Home/Documents>

¹⁷ <https://www.transparency.org/research/cpi/overview>

4.2. The Eurobarometer

The latest Eurobarometer **survey on public attitudes towards corruption** dates from 2017. A factsheet published the following year contains the key result by EU Member State and compares them with the EU average as well as the results of previous surveys for the same country, allowing therefore the identification of trends.¹⁸

5. Benchmarking public ethics at the local level

5.1. ELoGE

The Council of Europe benchmarking of public ethics is included in the benchmark of ELoGE, the European Label of Governance Excellence.¹⁹ ELoGE enables local authorities to assess where they stand in relation to the implementation of the 12 Principles of Good Democratic Governance. Principle No. 6 concerns 'Ethical Conduct'.

Indicators are specified for each of the following activities:

- 1) the public good is placed before individual interest,
- 2) there are effective measures to prevent and combat all forms of corruption,
- 3) conflicts of interest are declared in a timely manner and persons involved abstain from taking part in relevant decisions,
- 4) all persons enjoy equal treatment irrespective of their connections with elected representatives or officials.

5.2. Public Ethics Benchmarking (PEB)

In 2006, the then Centre of Expertise for Local Government Reform developed a toolkit called *Public Ethics Benchmarking (PEB), building ethical infrastructure in public administration, corruption risk assessment*.²⁰

This is a practical tool which helps local authorities to improve local public ethics standards and compliance with them in the short to medium term.

The PEB should be used in three main stages:

- 1) adapting the European Score Card (in whole or only selected chapters) to national circumstances through a revision by participating municipalities;
- 2) self-assessment and preparation of the National Benchmark on the basis of the National Score Card;

¹⁸

<https://ec.europa.eu/commfrontoffice/publicopinion/index.cfm/Survey/getSurveyDetail/instruments/SPECIAL/surveyKy/2176>

¹⁹ <https://rm.coe.int/eloge-benchmark-en-17-09/16808d71d4>

²⁰ <https://rm.coe.int/peb-public-ethics-benchmarking/1680746d52>

Feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics
[CDDG(2019)10]

3) conducting peer reviews which lay the basis for well-targeted reform programmes.

SECTION/ STATEMENT	ACTIVITY	STANDARD VERIFICATION / EVIDENCE STATEMENT	OTHER MEANS OF VERIFICATION / EVIDENCE (PLEASE DESCRIBE)	MAX SCORE	SCORE
3. Rights and obligations of local public servants					
D3.1	The council has standard terms and conditions of service that reflect the law, central government guidance and standard practice among neighbouring councils	Standard Terms and Conditions of Service		10	
D3.2	The terms and conditions of service include a Code of Conduct that broadly covers the same issues as the Code of Conduct for councillors	Standard Terms and Conditions of Service Code of Conduct		10	
D3.3	The terms and conditions of service have clear guidance on second jobs, incompatible appointments, party membership, or outside income-earning activities	Standard Terms and Conditions of Service		10	
D3.4	All terms of reference of committees include the requirement that no official is discussed or named in public in relation to the performance of any activity in an official capacity	Committee Terms and Conditions of Service		8	
D3.5	The council ensures that each department has monthly meetings to discuss work-related issues	Work consultation meeting minutes held by HR		7	
D3.6	There is a joint councillor-official representative committee to discuss council services and terms and conditions of service	Work consultation meeting minutes held by HR		7	
D3.7	All officials have annual ethics awareness training	Training programme materials		8	
D3.8	All officials are surveyed annually on their awareness of the Code, register of interests and other ethical issues	Results of annual survey held by HR		6	
D3.9	The council provides all officials on appointment with a statement of the legal and lawful requirements of their post, and guidance on what to do if they consider they are being asked to work outside such requirements	Standard Terms and Conditions of Service Whistle-blowing policy		9	
D3.10	The council initiates a whistle-blowing policy with designated internal and external persons or agencies to receive allegations under that policy, the making of which in good faith should be included in officials' terms and conditions of service as not being grounds for disciplinary action or dismissal	Whistle-blowing Policy Job Description; Terms and Conditions of Service for post		9	

The PEB allows local authorities to score themselves against a National Benchmark in the following areas (chapters):

- A. Status of Local Elected Representatives
- B. Funding of political parties, political associations and individual candidates at local level
- C. Control and audit of local authorities
- D. Status of local public servants
- E. Transparency, administrative procedures, anti-corruption campaigns and evaluation
- F. Local authorities' relations with the private sector

For each chapter, there are specific sections, with a list of precise indicators (*see example above*).

The PEB was updated for the last time in 2017. Despite its general name, it is thought out for the local level. The Centre of Expertise has used it in several cooperation projects aimed at strengthening good governance, including in Croatia, Estonia, Greece, Republic of Moldova, Romania, Spain and Ukraine.

6. Replies to the questionnaire²¹

At the initiative of the Bureau of the CDDG, in June 2019 member States were asked whether they had a system for self-assessing performance in the area of public ethics, whether they would be interested in having such a tool and whether they would be prepared to share its results.

²¹ The text of the questionnaire is in the Appendix
Feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics
 [CDDG(2019)10]

Fourteen member States replied. The summary of the replies is that:

- none of the respondents has a mechanism in place for systematic assessment of public ethics;
- for the most part, competencies and responsibilities for instruments aimed at assessing public ethics are fragmented;
- ten respondents indicated that they would be interested in adopting a self-assessment tool;
- one respondent indicated that they would not be in favour of such a tool;
- one respondent also questioned the utility of such a tool and was not certain if they would make use of it;
- some respondents indicated that they would be open to sharing the results of self-assessments so that trends can be identified.

7. Proposal concerning a Council of Europe indicators framework

In general, the CDDG supports the idea of developing an indicators framework for member States to assess their performance in the area of public ethics, as a way to strengthen adherence to Council of Europe standards and effective compliance with the recommendations emanating from GRECO and other Council of Europe bodies. Such a framework would also help member States to measure progress towards achieving the SDGs, in particular SDG 16.

The CDDG, however, does not consider it feasible for the Council of Europe to develop an indicators framework on public ethics that would imply a systematic involvement of the Organisation in the collection, analysis and publication of data. This kind of framework would be costly, cumbersome and too complex for the Council of Europe to set up and implement. It would also, to some extent, duplicate the work which is already being carried out by reputable international institutions and bodies. Finally, the replies to the questionnaire, albeit limited in number, do not indicate support for a project of these dimensions.

The CDDG, however, considers it feasible for the Council of Europe to develop a model benchmark/checklist on public ethics which Council of Europe member States could use as a template to be adapted by public organisations or entities to their needs and specificities.

The rationale behind this proposal is that different public organisations and levels of government have their specific features, ethical culture and challenges. The public ethics risks confronting them are not the same, with the consequence that a single benchmark /checklist could not fit them all.

The task of elaborating such a model benchmark/checklist could be given to the Centre of Expertise for Good Governance, which has a consolidated experience in preparing toolkits and benchmarks, based on Council of Europe standards.

In carrying out this task, the Centre of Expertise for Good Governance could base itself on the existing Public Ethics Benchmark (PEB) for the local level, by introducing appropriate modifications to indicators and taking into account the new Guidelines and Guide on public ethics as well as the input coming from the CDDG. Amongst the indicators, compliance with relevant GRECO recommendations, as assessed by GRECO, should be included.

The CDDG also considers it feasible that the Centre for Expertise develops a benchmark/checklist for the central authorities of member States, for them to assess whether the national public ethics framework is adequate or could be further improved. Also this task should be carried out by the Centre of Expertise taking into account the input of the CDDG.

APPENDIX

**QUESTIONNAIRE TO MEMBER STATES
ON A POSSIBLE COUNCIL OF EUROPE INDICATOR FRAMEWORK
TO IDENTIFY TRENDS AND TO ALLOW MEMBER STATES
TO ASSESS THEIR PERFORMANCE IN RELATION TO PUBLIC ETHICS**

Question 1

Does your country use a system for assessing the authorities' performance in relation to public ethics? If so, please provide information as regards:

- a) the type of system/indicators that are used,
- b) the way in which the findings are taken into account.

Question 2

Would you be interested in using a public ethics self-assessment tool?

Question 3

Would you be prepared to share the results of such self-assessments for them to be compiled, so that trends can be identified?