

Governance Committee

CG/GOV09(2018)03

19 September 2018

Fighting nepotism within local and regional authorities

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1 L: Chamber of Local Authorities / R: Chamber of Regions
EPP/CCE: European People's Party Group in the Congress
SOC: Socialist Group
ILDG: Independent and Liberal Democrat Group
ECR: European Conservatives and Reformists Group
NR: Members not belonging to a political group of the Congress

DRAFT RESOLUTION

1. Human resources lie at the heart of local and regional government and constitute its main asset. For local and regional governments to function effectively, they need good quality and highly motivated staff. The existence of merit-based recruitment and promotion systems are a precondition for ensuring the impartiality and quality of public service delivery. At the same time, the high degree of autonomy of local and regional authorities in recruiting and dismissing staff has been recognised as one of their main corruption risks.

2. Recognising that corruption in all its forms is a major threat to good governance at local and regional level, the Congress, as part of its roadmap of activities to fight corruption, adopted in October 2016 at its 31st session, agreed to prepare a report on nepotism, to identify preventive measures and good practices in the fight against this form of corruption.

3. Local and regional authorities are especially vulnerable to nepotism, and other forms of favouritism, due to their size, autonomy and proximity with citizens. As nepotism practices in these circumstances can be more visible to the general public, they have greater potential to damage the public trust. The establishment of sound human resources management practices is therefore of utmost importance for underpinning public trust and fighting corruption.

4. Problems of low team spirit, absenteeism, decreasing commitment, respect and trust in the leadership can pose particular challenges at the local level. Given the importance of employee confidence and satisfaction in the work place, the establishment of effective and responsible human resources management practices is essential.

5. Nepotism cannot be prevented by rules and regulations alone, there also needs to be change in social attitudes and administrative culture, which need to evolve to become less tolerant of such practices and to embrace an ethics-based approach. The general public has a role to play and needs to be made more aware of the dangers and damaging consequences of nepotism in government.

6. As attitudes to and tolerance of nepotism vary across Council of Europe member States, according to their administrative cultures, the approach to combating such practices needs to be tailored to the specific context.

7. In the light of above, the Congress, bearing in mind:

- a. Council of Europe Programme of Action Against Corruption (1996);
- b. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles;
- c. Criminal Law Convention on Corruption (ETS No. 173);
- d. Civil Law Convention on Corruption (ETS No. 174);
- e. Council of Europe Model Code of Conduct for Public Officials (2000);
- f. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;

8. Calls upon local and regional authorities of the member States of the Council of Europe to:

- a. Enhance transparency in their recruitment and promotion processes, by establishing clear and comprehensive procedures, that can be easily understood and accessed by applicants and staff;
- b. Guarantee equality and fairness in the recruitment and promotion processes, by taking account of the knowledge, experience, skills and ethical behaviour of the candidates, establishing a common set of rules and applying the principles of merit-based recruitment;
- c. Carry out ethics or anticorruption audits, with particular attention to human resource management practices, to identify nepotism risks and propose appropriate counter-measures;
- d. Introduce reporting channels in order to identify potential occurrences of favouritism or conflict of interests in the recruitment or selection process;

- e. Introduce integrity management structures, such as an 'Integrity Bureau', composed of integrity councillors, to investigate suspected cases of misconduct in this area;
 - f. Ensure that any breaches of integrity, misconduct or withholding of information of a potential conflict of interest in staff matters result in appropriate and deterrent disciplinary actions;
 - g. Ensure the prohibition of public officials from being involved in any recruitment and selection procedures that may question their impartiality.
9. Calls on national associations of local and regional authorities to:
- a. Organize educational activities in public institutions such as seminars, workshops, in-service training events to raise awareness of the risks of nepotism, or any form of favouritism;
 - b. Promote cooperation and collaboration with other municipalities, such as the establishment of regional networks, to exchange experience and knowledge in dealing with nepotism in staff recruitment;
 - c. Respond promptly to complaints and recommendations by citizens, in order to increase public trust in local and regional governance.

DRAFT RECOMMENDATION

1. For local and regional governments to function effectively, they need competent and highly motivated staff. Merit-based recruitment and promotion are preconditions for ensuring the impartiality and quality of public service delivery. At the same time, the power of local and regional authorities to recruit and dismiss staff has been recognised as a significant corruption risk.
2. Aware that corruption in all its forms constitutes a destructive threat to the efficiency and quality of good governance at both local and regional level, at its 31st plenary session in October 2016, the Congress adopted a roadmap of activities to fight corruption, including a report on nepotism.
3. Local and regional authorities are especially vulnerable to nepotism, and other forms of favouritism, due to their size, autonomy and proximity with citizens. As nepotism practices in these circumstances can be more visible to the general public, they have greater potential to damage the public trust that is crucial to the proper functioning of government.
4. Nepotism can discourage skilled, motivated and competent candidates from applying for certain positions, and result in the recruitment of unqualified staff, and subsequently distort the proper functioning of government, by allowing private interests to prevail over public interests.
5. Recruitment processes need to be transparent and conducted according to ethical rules and standards, to prevent the undue influence of public officials in the selection procedure, where conflicts of interest might arise.
6. As the European Charter of Local Self-Government recognises, adequate remuneration is another essential condition for ensuring high-quality staff and minimising the risk of nepotism and other forms of favouritism.
7. In the light of the above considerations, the Congress, bearing in mind:
 - a. Article 6.2 of the European Charter of Local Self-Government;
 - b. Council of Europe Programme of Action Against Corruption (1996);
 - c. Resolution (97) 24 of the Committee of Ministers on the Twenty Guiding Principles;
 - d. Criminal Law Convention on Corruption (ETS No. 173);
 - e. Civil Law Convention on Corruption (ETS No. 174);
 - f. Council of Europe Model Code of Conduct for Public Officials (2000);
 - g. Recommendation CM/Rec (2014)7 of the Committee of Ministers to member States on the protection of whistleblowers;
8. Invites the Committee of Ministers to encourage the governments and parliaments of member States and, where applicable, regions with legislative powers, to:
 - a. Ensure that their legislation complies with this recommendation and includes sufficient provisions to mitigate this risk and to combat and deal with suspected cases of nepotism, notably by:
 - i. Protecting whistleblowers who report cases of nepotism;
 - ii. Ensuring the impartiality and protection of judges and prosecutors conducting nepotism investigations;
 - iii. Providing appropriate sanctions for proven cases of nepotism;
 - b. Take steps to develop their administrative culture to eliminate tolerance of all forms of favouritism;
 - c. Establish agencies to monitor the implementation and effectiveness of nepotism legislation and to ensure professional training by means of:
 - i. Education for public officials through seminars, workshops or meetings;
 - ii. Fostering awareness among public officials their rights, responsibilities and duties in this respect;

- iii. Ensuring the selection of competent staff in public bodies that inspect and monitor local and regional authorities for incidences of nepotism;
- d. Ensure the independence of officials working in audit institutions;
- e. Ensure transparency, accountability, fairness and equality in the recruitment process by:
 - i. Using standardized examination systems for appointing and recruiting public officials;
 - ii. Providing clear and comprehensive explanations of the recruitment and selection process;
 - iii. Obliging public officials involved in selection processes to declare any present or past relationships with candidates;
 - iv. Prohibiting public officials from having direct or indirect influence over employees to whom they are related;
 - v. Prohibiting public officials from recommending family connections to be hired in the same workplace or soliciting other employees to hire relatives;
 - vi. Ensuring the efficiency of recruitment process control systems;
 - vii. Establishing effective and responsible human resources management systems;
- f. Ensure an adequate level of remuneration for local and regional authority staff;
- g. Encourage and contribute to cooperation and exchange of experience on these issues at the national and international level, including coordination with civil society groups and think-tanks, listening and responding to their proposals and recommendations.

DRAFT EXPLANATORY MEMORANDUM²**Table of contents:**

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Introduction

1. Nepotism and favouritism in all its forms are types of corrupt behaviour that have the potential to undermine the proper functioning of the state and compromise the ability of public authorities to serve the public good. At local and regional level, they hinder the effectiveness and efficiency of local public service delivery, diminish public trust and damage the perception that local and regional public authorities are serving the interests of their constituents.

2. To address these risks, this report sets out standards for good practice and presents strategies for preventing corruption in the recruitment procedures of European local and regional governments. It discusses the negative impacts of nepotism and other forms of favouritism on the overall organisational performance and culture and argues that these ramifications can be diminished by transparent, impartial and merit based human resource management systems. The report provides an overview of the international anticorruption framework (as regards recruitment and personnel management) and presents some good practices for the prevention of nepotism and favouritism in local and regional administrations.

1 Background

3. Local and regional authorities are the public structures that are closest to the citizens and are their most common points of interaction. By virtue of being closer to the people, local and regional administrations have:

- better chances to 'hear' the voice of local communities and meet their expectations;
- greater flexibility to deliver transparent and accountable public services tailored to the specific needs of individuals and communities;
- easier ways for receiving feedback and taking actions against malpractices.

² The rapporteur would like to thank Albena Dimitrova Kuyumdzhieva for his contribution to this report.

4. These distinctive features enable local and regional governments to 'feel the pulse' of local communities, react smoothly to their immediate concerns and shape local policies in a way that best reflects the current and future needs of local people. By providing transparent and accountable public services and reacting immediately to any malpractices, local and regional authorities have the potential of becoming flagships of good governance and leaders of ethical change. Yet despite being among the most trusted institutions in European countries³, 77% of citizens believe that corruption exists in their local or regional public institutions (TNS Opinion & Social 2014). The perceptions of European citizens coincide with those of the citizens in other regions,⁴ who list members of Parliament and government officials (31% and 30 % respectively) along with local government councillors (26%) among the most corrupt political elite groups (Pring 2016). Such public perceptions significantly damage the image of local and regional governments, undermine public confidence in their ability to properly and efficiently execute their tasks and reinforce corruption practices.

5. Corruption related activities, such as favouritism, nepotism and abuse of power, can affect virtually all human resource activities (Chêne 2015), with recruitment, promotion, training and transfer of staff being among the most vulnerable ones. The risks of buying and selling positions, appointing and promoting friends, relatives and party affiliates, are particularly high when the positions are considered lucrative, or provide opportunities for illicit enrichment and/or when unemployment rates are high and public service positions can bring stability of income and a range of other benefits. In such situations, the existence of high discretionary powers, combined with lack of strong accountability systems, checks and balances and weak transparency mechanisms serve as enablers that facilitate corrupt practices.

6. Given that public confidence levels and corruption perceptions are determined by the quality and the performance of the employees working in each particular institution, the establishment of sound human resources management practices, ensuring that local and regional administrations hire the people who are best suited, qualified and motivated, is of utmost importance for underpinning public trust and fighting corruption. Such practices serve 'as a steward of democracy' (Ingraham and Rubaii-Barrett, 2007:1) and guarantee impartiality and quality of the service delivery.

2 Public or private interests? Clientelism and favouritism in human resource management

7. Since the days of Plato and Aristotle, the distinctive feature that differentiates good from bad governance has been the prevalence of public over the private interests (reflected in a lack of corruption)⁵. The duty of each public official to adhere to the common interest of the society as opposed to his/her own private interests, is one of the cornerstones of a corruption-free, efficient and effective public service system. The Council of Europe's Model Code of Conduct for Public Officials⁶ (hereafter referred to as the 'Model Code of Conduct') makes explicit reference to this notion, underscoring that public officials should be honest, impartial and efficient and should only regard to the public interest when they take decision on a particular case (art.5.2). Public officials should not allow their private interest to conflict with their public position, should avoid any 'real, potential or apparent' conflicts of interest and should not use their position to gain undue advantage(s) for their private interests (art.8). Private interests are considered any advantage that public officials may get for themselves, their family, close relatives, friends and persons/organisations with whom they have had business or political relations (art.13(2)).

8. Favouritism can be defined as unfair support shown to one person or group, especially by someone in authority. In its various forms it represents a typical conflict of interest situation where the private interests of the public official takes prevalence over his/her duty to be impartial in the exercise of his/her public function. This type of behaviour may result in:

3 The level of trust for the local and regional authorities in EU varied in the period 2008-2016 between 49.84% (2008), 41.56% (2015) and 47.45% (2016). Overview available at: <http://ec.europa.eu/COMMFrontOffice/publicopinion/index.cfm/Chart/getChart/chartType/grdChart/themeKy/18/groupKy/92/savFile/10>

4 The survey studied the perceptions of people, living in 42 countries in Europe and Central Asia regarding nine different groups, including high-level political actors (the president/prime minister's office, members of parliament and government officials); key public sector employees who interact with citizens (tax officials, the police, judges/magistrates and local government councillors); and those who are not part of the public sector, but are influential in political life (business executives and religious leaders).

5 See Mulgan, R. (2012) 'Aristotle on Legality and Corruption' in M. Barcham, B. Hindess, P. Larmour(eds.) *Corruption: Expanding the Focus* Canberra: ANU Press, Friedrich, C. (2002) 'Corruption concepts in Historical perspective', in A. Heidenheimer, and M. Johnston(eds.) *Political Corruption: Concepts and Contexts* New Brunswick: Transaction Publishers, pp. 15–23.

6 Council of Europe (2000a) Recommendation No. R (2000) 10 of the Committee of Ministers to Member states on codes of conduct for public officials, adopted by the Committee of Ministers at its 106th Session on 11 May 2000). The Model Code of Conduct for Public Officials is listed as Appendix to the Recommendation. <https://rm.coe.int/16806cc1ec>

- nepotism: a specific form of favouritism whereby a public official uses his/her authority or position to provide undue advantage (job, favour, preferential treatment etc.) to a family member;
- cronyism: a specific form of favouritism whereby the public official gives preferences to his/her friends and acquaintances;⁷
- Patronage: a specific form of favouritism in which a person is selected for a job or government benefit because of political affiliations or connections;

9. Clientelism is another form of corruption-related behaviour and represents an 'unequal system of exchanging resources and favours based on an exploitative relationship between a wealthier and/or more powerful 'patron' and a less wealthy and weaker 'client' (Transparency International 2009). Forms of clientelism in the recruitment of local/regional government employees can be used as an electoral strategy, or in general, as a strategy for obtaining or maintaining political support. The 'linkage between citizens and leaders using this strategy is based clearly on self-interest, inasmuch as leaders target material inducements directly towards individuals or small groups in return for their support, vote, or consent' (Mikkelsen 2013:365).

10. In all the described cases, the principles of fairness and impartiality of the public service are violated due to real, perceived or potential collusion between the official's private interests and the interests of society. In such situations, the deviation from the official's duty to serve the public and the utilisation of undue advantage(s) represents a typical corruption-related behaviour.⁸

11. When applied in the recruitment process, the practices of cronyism, nepotism, political patronage and clientelism may lead to the hiring of individuals (from family, friends or political circles) who are not capable, willing or qualified to execute their allocated tasks. Even if they are competent, able and qualified to perform their functions, the special preference given to them distorts the principle of fairness, creates unequal opportunities, facilitates corruption, lowers the efficiency and effectiveness of the organisational performance and leads to problems related to the competence, independence, trust and esprit de corps (or rather the lack of them).

3 The importance of impartial recruitment systems

12. Local and regional authorities, as a rule, have a high degree of autonomy in managing and recruiting their own staff. Depending on the cultural, administrative and legal context, different systems and levels of autonomy have been established throughout Europe. Some local administrations (e.g. in Belgium), enjoy the right of determining the administrative and pecuniary status of their employees. In some countries (e.g. Spain), the local and regional officials have the same status and are governed by the same law as the civil servants working in the central administration. In other countries (e.g. Hungary), a mixture of both systems may be applied, while in others (e.g. Greece), a specialised framework for employees of local governments has been created.

13. With regard to the employment modalities and the status of employees, some countries have deployed a model where local and/or regional employees may have a special legal status and are considered civil servants, while others treat them as any other staff, employed under the respective labour laws, and some use a mixed model of the two systems (Moreno et al 2012).

14. While these differences may have huge implications for the recruitment procedures and other conditions of service, the ethical principles that should be embedded in the respective human resource frameworks remain the same. The principles of equality and impartiality of public recruitment are the cornerstones for the provision of effective and efficient public services. The principle of fairness in the selection of public employees is directly related to the level of public trust in the institutional ability to serve the public and has deeper organisational implications that determine the ethos in the local and regional public service domain. A lack of merit-based recruitment is one of the factors that significantly contributes to the spread of corruption (Dahlström, Lapuente and Teorell (2012) and leads, according to van Dyne (2001), to the erosion of organisational structures and practices of 'court-building' and 'Caligula appointments'.

⁷ It should be noted that some definitions of nepotism also cover cronyism. For example, Transparency International Anti-Corruption Plain Language Guide (2009) explains nepotism as a 'Form of favouritism based on acquaintances and familiar relationships whereby someone in an official position exploits his or her power and authority to provide a job or favour to a family member or friend, even though he or she may not be qualified or deserving'.

⁸ Corruption is commonly defined as 'misuse of entrusted power for private gain' (Transparency International 2009:14).

15. Van Dyne describes the phenomenon of 'court-building' as a situation in which the manager(s) of the organisation builds, an inner, court like circle, which shares the same values and views and never questions his/her opinion. The most important factor for recruitment and selection, in such cases, becomes the obedience towards the superior and not the skills and quality of the individual employees. He argues that this practice may lead to 'Caligula appointments' where managers feel free to recruit whoever they like, irrespective of the skills and qualifications. These usually leads to mediocre quality of appointments as talented people may become troublesome. In such organisations, the standards of good governance are replaced by a complicated social-exchange mechanism based on personal favours. The principles of merit, transparency and accountability are substituted by murky human resource practices which tolerate corruption, favouritism, clientelism and ultimately deteriorate the organisational performance.

16. Even in cases where 'court-building' and 'Caligula appointments' phenomena are not present, the practices of favouritism can still flourish, based on the notion that members of family, friends or political circles are entitled to special treatment and may serve best the organisational interests. In many countries, some will argue that providing support to family, friend or political affiliates is part of the local tradition. Yet, various studies of cultural traditions and corruption perceptions argue that corruption is not universally endorsed by traditions and cultures (Smith 2007, Persson, Rothstein and Teorell 2013).

17. While studying the roots of corruption, these studies show that corrupt practices flourish not because people genuinely consider them appropriate, but because the cost of being honest in a country rampant with corruption is very high. When societies consider corruption as a part of their normal life, all individuals tend to act in a corrupt manner, because otherwise they risk bearing 'losses' because of their moral principles. In such cases, the individuals do not see any sense in being honest and acting against their own self-interest (Persson, Rothstein and Teorell 2013). Such situations create a vicious circle, where 'the use of corrupt incentives to influence policy makers and administrators leads to a reduction in confidence and trust of public servants, which in turn creates incentives to secure access by using officially prohibited means, further weakening the accountability and legitimacy of the political system' (Philp 2001:358).

18. Looking at the reasons behind the public trust in local and national authorities in Western Europe, Fitzgerald and Wolak (2016) assert that the level of political trust in local government reflects the character of community life, social connections and government performance. This is particularly visible in small communities, where the organisational performance of local authorities and possible abuses of power are immediately known to the general public. Practices such as nepotism, cronyism and political patronage create conflict of interest situations which distort the relationship between the local or regional government and their communities. Wechsler (2013) argues that when public officials fail to disclose their conflicts of interest and do not withdraw from participation in decisions which may benefit their personal interests (family, friends, business contacts), the officials will be generally regarded as untrustworthy and will be seen as concealed agents of whoever they are in special relationship with.

19. If such behaviour is not sanctioned, the entire administration will be seen as selfish, driven by the interests of friends and families, rather than by those of the local community. Along with diminished public trust, the existence of such public beliefs severely hinders the recruitment of highly ethical talented individuals, who will be less motivated to apply for a position in an administration that they believe to have a low esprit de corps and to be driven by corruption. This notion supports the theory of Pettinger (2010), who attributes the attitudes of employees towards their organisation to the:

- approach taken by the organisation during the application process;
- impartiality of the appointment procedures;
- induction and initial orientation;
- attitude of the colleagues and supervisors;
- management style of the organisation;
- organisational culture and the climate;
- collective prevailing work ethics.

20. Human resource practices tainted by nepotism, cronyism, political patronage or clientelism also have a profound impact on the internal culture and subsequently on the organisational performance. Sauser (2010) argues that employees with low moral standards are the main peril for the proper functioning of any administrative structures, as they pursue their private rather than the public agenda and lower the esprit de corps. If organisational culture is comprehended as a shared system of values and beliefs that guides the behaviour of its staff, the existence of favouritism and other corrupt practices in the recruitment processes sets the wrong type of standard that can be easily transferred to all other performance areas and processes of the organisation. Moreover, when supported or carried out by the supervisors, such practices erode the moral credibility of the leadership and transform it into a negative ethical model. Given that the behaviour of the leadership is a strong determinant for the proper execution of merit based recruitment practices, managers who support, facilitate or tolerate favouritism practices may become the main culprits for the development of a corrupt organisational culture (Pelletier and Bligh 2008).

21. Apart from setting the wrong type of standard and promoting unethical behaviour, the use of nepotism in recruitment procedures has other negative consequences. Studying the attitudes towards managers who are perceived by others as being hired due to their family relations (as opposed to merit), Padgett and Morris (2005) assert that these supervisors are perceived as less capable and are less supported by their staff. Employees working under such managers have been found to be less confident for their future promotions and are significantly less committed to their organisation. The study of Pelletier and Bligh (2008), on the emotional reactions of employees towards different forms of favouritism practices, adds to these findings, revealing emotions ranging from anger and frustration, cynicism and pessimism, to paranoia and fear. These emotions play an important role, when the employees feel they cannot trust the objectivity of their hierarchy and lead to different undesirable outcomes, such as: 'absenteeism, theft, intentions to leave the organization, and decreased organizational commitment and citizenship behaviours' (Pelletier and Bligh 2008:829).

22. The negative consequences of favouritism practices on the organisational culture and performance and their impact on the society at large can be summarised as follows:



4 Counteracting nepotism: the international anticorruption framework

23. United Nations Convention against Corruption (UNCAC)⁹ and the Model Code of Conduct outline the main international anticorruption framework applicable to human resource management practices.

⁹ All Council of Member states have ratified UNCAC.

The two documents prescribe a number of ethical rules and standards to be followed in the recruitment, promotion, appraisal and management of public officials and include in their scope all types of employees working at regional and local government levels.

24. The definition of public official provided by UNCAC encompasses: (i) any person holding a legislative, executive, administrative or judicial office of a State Party, whether appointed or elected, whether permanent or temporary, whether paid or unpaid, irrespective of that person's seniority; (ii) any other person who performs a public function, including for a public agency or public enterprise, or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party; (iii) any other person defined as a "public official" in the domestic law of a State Party. However, for the purpose of some specific measures contained in chapter II of this Convention, "public official" may mean any person who performs a public function or provides a public service as defined in the domestic law of the State Party and as applied in the pertinent area of law of that State Party.' (art. 2 UNCAC).

25. The Model Code of Conduct considers 'public official' to be any person employed by a public authority (art.1(2)). Council of Europe Recommendation No. R (2000) 6 on the Status of Public Officials in Europe¹⁰ (hereafter referred to as the 'Recommendation on the Status of Public Officials') gives a slightly different perspective, describing the public officials as 'any members of staff, whether statutory or contractual, employed by state authorities or departments whose salary is paid out of the state budget, excluding elected representatives and certain categories of staff in so far as they come under special regulations'.

26. In practice, both the UN and Council of Europe definitions create a level playing field for all public-sector employees and all elected officials, regardless of their status, type of appointment or level (central, regional, local). This inclusive character of the definition of 'public official' entails that the anticorruption principles and standards that are applicable to human resource management of civil servants and employees appointed at the level of central administration and the ones at local and regional level should be the same.

4.1 Merit-based recruitment and promotion systems

27. The principle of merit-based recruitment is among the key pillars embedded in the European Charter of Local Self-Government. Art 6(2) of the Charter explicitly underlines that 'the conditions of service of local government employees shall be such as to permit the recruitment of high-quality staff on the basis of merit and competence'. UNCAC and the Recommendation on the Status of Public Officials further reassert this principle by prescribing the implementation of the following human resource standards:

- systems for recruitment, retention, promotion and retirement of public officials and other non-elected officials should be based on the principles of efficiency, effectiveness, merit, equity and aptitude;
- public officials should be provided with adequate remuneration and pay scales;

28. The establishment of merit-based recruitment and promotion policies, merit-based appraisal systems and performance management, transparent and attractive pay and an efficient system of internal controls come to play a vital role in preventing corruption.

29. The notion of merit-based recruitment and promotion policies is rooted in the understanding that the recruitment and promotion of public officials should be based on the level of knowledge and skills of each individual, rather than on his/her family, friends or political connections. Chêne (2015) underlines the particular importance of the use of the term 'merit' (referring to skills and knowledge) as opposed to the broad definition of 'able to do the job', asserting that the latter brings ambiguity that can be misused in favour of candidates that less skilled and knowledgeable, yet deemed adequate, based on their special family, friends or political ties.

30. The Recommendation on the Status of Public Officials explicitly recommends that the 'recruitment of public officials should be defined by equality of access to public posts and selection based on merit, fair and open competition and an absence of discrimination' (art 4). This entails that recruitment

¹⁰ Council of Europe (2000b) Recommendation No. R (2000) 6 of the Committee of Ministers to member states on the status of public officials in Europe, adopted by the Committee of Ministers on 24 February 2000 at the 699th meeting of the Ministers' Deputies.

procedures should be open and transparent, their rules should be explicitly clear and should allow for the candidate that matches the best the specific needs of the organisation to be selected (art.5).

31. UNCAC reaffirms these principles by requesting its signatories to 'endeavour to adopt, maintain and strengthen systems for the recruitment, hiring, retention, promotion and retirement of civil servants and, where appropriate, other non-elected public officials: (a) that are based on principles of efficiency, transparency and objective criteria such as merit, equity and aptitude' (art. 7(1a)). This requirement is based on the notion that the recruitment and retention of individuals possessing the highest level of skills and integrity is indispensable element for building efficient, effective and corruption free public sector. The practical steps in applying art. 7 are contained in the UNCAC Technical Guide, promoting:

- the elaboration of job profiles/descriptions, clearly indicating the requirements and qualifications needed from the job holder;
- transparency in advertising open positions;
- clear and transparent procedures for selection;
- clear and transparent appointment/selection criteria;
- the provision of evidences, confirming the qualifications of the successful candidates;
- the inclusion of unambiguous terms and conditions of service in the job contracts/appointments;
- establishing a remuneration that corresponds to the duties and responsibilities of the post;
- establishing a system for annual performance appraisals for determination of effectiveness, training needs, career progression and promotion.

32. In addition, the Model Code of Conduct vests the public officials who have the responsibilities for recruitment and promotion of current and future staff with the tasks of conducting appropriate checks on the integrity of the candidates (art. 24).

33. Merit-based appraisal systems and performance management are the second key element that ensures integrity of public service. The existence of clear and objective criteria for performance evaluation, a transparent process of assessment and limited discretionary powers of the management form the core of merit-based performance management.

4.2 Conflict of interest prevention

34. Favouritism practices in their various forms represent typical conflict of interest situations where the private interests of the official overshadow the public ones. Such situations create inequality and endanger the impartiality and quality of the public service delivery. Given these perils, UNCAC and the Model Code of Conduct have explicitly dedicated provisions to the prevention of conflicts of interest situations.

35. Art.8(5) of UNCAC requires from the signatory of the Convention to 'establish measures and systems requiring public officials to make declarations to appropriate authorities regarding, inter alia, their outside activities, employment, investments, assets and substantial gifts or benefits from which a conflict of interest may result with respect to their functions as public officials'. In the same spirit, the Model Code of Conduct prescribes that it is personal responsibility of every public official to avoid any potential, perceived or real conflict of interest situations. In case such situation is inevitable, the public official should disclose the existence of conflict of interests and should refrain from taking decisions that may cause such conflict (art.13-14). Failure to disclose any potential, perceived or real conflict of interest should lead to appropriate and effective disciplinary sanctions.

36. When applied to the processes of recruitment, the practical implementation of these stipulations requires that:

- public officials should not be involved in any recruitment and selection procedures that question their impartiality;
- family members cannot be in a situation where one is the direct supervisor of the other;

- any conflict of interests of a candidate for the position of public official should be resolved before the appointment.

37. The UNCAC Technical Guide pays a special attention to the fact that conflict of interest procedures/regulations should address the particular types of conflict of interests situations that are predominant for every given country. Acknowledging that in some cases, conflict of interest situations cannot be avoided (e.g. in small communities for example) the Guide prescribes that special procedures for safeguarding the public interests should be adopted but these should reflect the local situation and should not 'paralyse' the work of the administration.

4.3 Role of leadership

38. Given the frequently existing large gap between the formal rules for appointment of public officials and the actual favouritism practices, the role of the leadership is crucial for enhancing impartiality of the recruitment procedures (Sundell 2014). By providing a moral model of behaviour, enforcing the existing merit-based recruitment practices and imposing sanctions in case of non-compliance, the leadership of the local and regional authorities should introduce/support/enhance ethics culture and high organisational intolerance towards all forms of favouritism and clientelism.

39. The Model Code of Conduct underscores these responsibilities, by highlighting that supervisors should be held into account for acts (or omissions) of their staff which are not consistent with the established ethical rules and anticorruption policies. Managers and supervisors should set a personal example of propriety and integrity and take all reasonable steps to prevent corruption. Such steps may include ethics training and awareness rising, being alert to signs of financial or other difficulties of their staff, enforcement of rules and regulations and sanctioning of misconduct (art. 25).

5 National case studies

40. The role of local and regional administrations in building fair, efficient and effective local governance goes beyond the implementation of the respective national legal framework. It extends to the application of a high level of integrity standards and the provision of ethical leadership in their local communities.

41. The following case studies present examples of measures undertaken by different local authorities for preventing favouritism and other corruption related behaviour in their recruitment procedures. The case studies focus on three different facets of prevention: establishing clear and comprehensive guidelines for recruitment and selection of staff; identifying corruption vulnerabilities and building sound anticorruption strategies; detecting, reporting and investigating cases of integrity breaches (e.g. all forms of favouritism, clientelism or any other corruption related activities). Although different in nature, these three facets have the same objective: to support the provision of impartial, efficient and effective public services which are free from undue influence and are targeted at the attainment of the public good.

42. The list of case studies is not exhaustive and aims to highlight good practices that can be tailored and replicated in other local and regional government administrations.

5.1 Policies and guidelines for selection and recruitment of staff

43. The elaboration of comprehensive guidelines on the procedures for selection and recruitment of staff is among the most commonly adopted good practice. The establishment of clear procedures that are easily understood and accessible to the applicants and the staff involved in the selection process is a prerequisite for ensuring transparency and accountability in the recruitment process. Such policies and guidelines reflect the principles stipulated by UNCAC and the Model Code of Conduct (described in the previous section) and serve as a guarantee for the fairness and objectivity of the selection procedures. They facilitate equal opportunities for all applicants and are based on the notion that the best qualified individual for the particular job should be selected.

5.1.1 City of Manchester, UK

44. The elaboration of the Recruitment and Selection Policy of the City of Manchester comprised four steps:

- comprehensive research on the recruitment and selection practices at national level (Civil Service Commission), at other local authorities and private bodies;
- elaboration of a draft policy, tailored to local needs;
- consultations with the management, trade unions and human resource officers and discussion within the human resource sub-group of the Manchester City Council;
- incorporation of the received feedback and adoption of the policy by the City Council.

45. The policy highlights the following standards of behaviour that should be followed at all times:

- clarity, fairness and courtesy should be shown to candidates throughout the entire recruitment cycle;
- recruitment information should be assessable, up to date and provided in plain language;
- all staff involved in recruitment procedures should promote service excellence and customer care;
- each opportunity to recruit will be assessed with a view to promoting the Council's employment initiatives.
- all selection decisions should be justifiable and based on fair and objective assessment of candidates against the skills, knowledge, behaviour and experience required for the role.
- care should be taken to ensure that the recruitment and selection processes used are cost effective both in terms of cost and officer time.

46. The policy creates a flexible framework, enabling managers to recruit staff in a way that is best applicable to their specific circumstances. Yet the selection process follows particular instructions on selection and assessment options. These are elaborated by the Best Practice Guidebook on Recruitment and Selection, which accompanies the Policy and provides easy references to be followed by all employees involved in the selection procedures. The Guidebook is the main document that advises the city hall personnel responsible for the selection of new employees. It contains detailed descriptions of:

- the key legal provisions applicable;
- the type and form of job description and person specifications;
- types of assessment methods;
- key redeployment issues;
- good advertising practices;
- a methodology for conducting interviews.

47. The guidebook has a FAQ section on the Intranet of the municipality called: 'I want to'. This section answers questions that the municipal managers may have, such as: 'I want to fill a vacancy; I want to prepare an advert and I need to know where to advertise; I want to shortlist; I want to give feedback; I want to prepare interview questions etc. The Guidebook is published on the Council's website with the aim of ensuring fairness, openness and accountability to the local community and all prospective candidates.¹¹

¹¹ More information available at:

https://www.google.be/url?sa=t&rct=j&q=&esrc=s&source=web&cd=7&cad=rja&uact=8&ved=0ahUKEwiU67Hzw5XVAhUOPFAKHwVokCFwQFghJMA&url=http%3A%2F%2Fwww.manchester.gov.uk%2Fdownload%2Fdownloads%2Fid%2F3140%2Freruitment_and_selection_guide&usg=AFQjCNFz5DHeRiXGdx0XI51tnQrufNamwA

5.1.2 *Stafford Borough Council, UK*

48. Stafford Borough Council adopted its Recruitment and Selection policy in 2004¹². The document is based on the understanding that local government employees are the most important asset of the organisation. They make it possible for the Council to serve the community and respond effectively to local and national initiatives. The policy therefore seeks to promote good employee relationships and equal opportunities for all. This is done by the establishment of procedures that comply with good practices of human resource management and promote the Council as a positive role model for other organisations in the community.

49. The policy spells out the role of the human resource officers and contains 26 sections dealing with:

- provision of equal treatment;
- pre-advertisement and advertisement information;
- decision on when to recruit and what type of contract should be offered;
- information for the applicants;
- shortlisting, interviewing and testing processes;
- feedback and monitoring.

A specialised section is devoted to pre-employment checks, referring to medical and criminal records, qualifications, work permits etc.

50. The policy contains also (as annexes): a General Policy Statement on the Employment of Disabled Persons and a Manager's Probationary Period Assessment Guide and is supplemented by templates for:

- Interview Assessment Form;
- Employment Reference Request Form;
- Shortlisting and Interview Decision Recording Form;
- Probationary Employee Monitoring Form.

5.2 **Ethics/anticorruption audits: foundation for sound anticorruption strategies**

51. Ethics or anticorruption audits are tools for diagnosing institutional risks and weaknesses. They serve as ethics infrastructure 'health checks' and can enable local and regional governments to efficiently deal with ethical or corruption challenges and adopt solutions that are tailored to local needs and realities. This is particularly important for human resource management practice, where gaps may appear between the formally adopted rules and their practical implementation.

5.2.1 *Town of Martin, Slovakia*

52. In 2011, the town of Martin was awarded the United Nations Public Service Award for North America and Europe in the category of 'Preventing and Combating Corruption in Public Service'¹³. The award reflected the overreaching anticorruption strategy and measures undertaken by the local administration to effectively combat corruption in all its forms. The beginning of this anticorruption journey started with a project called 'Transparent town', marking the collaboration between the mayor of the town and Transparency International-Slovakia. Following the request of the mayor, TI conducted anticorruption audit of the work of the local administration, covering key policies such as:

- managing movable and immovable property/assets;

¹² More information available at: <http://www.staffordbc.gov.uk/live/Documents/Policy%20and%20Plans/Recruitment-and-Selection-Policy.pdf>

¹³ More information available at: <http://transparency.sk/sk/audit-and-preparation-of-selected-anti-corruption-measures-in-the-town-of-martin/>

- human resource policy for recruitment of staff (including also of companies owned by the local administration);
- public participation in the local decision making;
- access to information;
- ethics infrastructure and conflict of interest policies;
- media policy;
- spatial planning and building policy;
- subsidies;
- transparency of legal entities established by the city;
- public procurement;
- public-private partnerships;
- housing allocation and allocation of places in social facilities;
- budgeting.

53. The audit was based on the review of the city documents, legal framework and internal processes and procedures. It also included analysis of the performance of individual policies through questionnaires and personal meetings which also aimed at identifying corruption vulnerabilities. Based on the audit results and its recommendations, the city of Martin developed targeted anticorruption strategy to mitigate corruption risks that may occur in each of the identified policy areas. The strategy was adopted by the local council.

54. The need for such systemic approach stems out from the fact that effective prevention of favouritism and other forms of corrupt behaviour requires targeted and tailored strategy that takes into consideration the local realities, strengths and weaknesses of the organisation; particular vulnerabilities and challenges; gap between the required standards and their application; available resources and public trust/perception levels. All these elements should be carefully considered and integrated into policy approach that is simple, realistic and achievable.

55. Similar anticorruption audits have been conducted in the various Slovak cities and regions (e.g. city of Prievidza, Banská Bystrica, Bratislava-Ružinov Municipal Council, Trnava, Žilinský Region).

5.3 Integrity management structures

56. Similarly, to anticorruption strategies, integrity management structures play an important role in upholding the organisational ethics policy and enforcing zero tolerance towards corruption. Such structures may take different forms (e.g. Integrity Bureau, Integrity councillors, Reporting centres) and may have different scope of tasks and objectives. The appointment of an integrity coordinator, entrusted with functions such as the promotion of integrity, the assessment of potential risks, monitoring of cases of misconduct etc., is a key mechanism for facilitating an ethical culture.

57. The establishment of an Integrity Bureau (for larger administrations), which investigates misconduct and enforces ethics compliance, is a good tool for supporting the management of the organisation in promoting the ethics rules and standards of behaviour. The establishment of whistle-blower channels and clear reporting mechanisms, in case of (suspicions of integrity breaches, further indicates the management commitment for enforcing strong integrity policy. All these mechanisms have a strong horizontal anticorruption effect across all activities of local and regional governments. They also serve as a particularly strong deterrent to favouritism in the recruitment processes, as they enable easy monitoring, reporting and identification of any undue influence or conflict of interest in the selection process.

5.3.1 Municipality of Hellevoetsluis, Netherlands

58. In response to the integrity requirements of the Dutch Civil Service Law¹⁴, the Hellevoetsluis municipality adopted its integrity policy in 2010 and appointed a specialised professional (integrity coordinator) to deal with integrity issues in the municipality. The main tasks of the integrity coordinator are:

- preparation and facilitation of the adoption and updating of the municipal integrity policy;
- elaboration of the Code of conduct (and its updates);
- provision of information to employees (including induction training for new employees) on different integrity matters and creating awareness;
- supervision of administrative processes related to misconduct cases (or suspicions of such);
- elaboration of procedures/guidelines describing how the municipal authority deals with (suspected) breaches of integrity;
- organisation of regular meetings with confidential integrity counsellors on matters that relate to integrity;
- provision of support and advice to the management of the organisation in relation to integrity issues;
- establishment of regional network for knowledge exchange with colleagues in neighbouring municipalities;
- preparation of annual integrity reports.

59. In 2013, the municipal administration adopted procedural rules for dealing with suspected breaches of integrity.¹⁵ The aim of the regulation was to create clarity, and ensure uniform approach in dealing with (suspicions) integrity violations. Amongst others, these procedural rules established reporting lines and procedures, envisioning that in case of suspicion of any type of integrity breach, employees can report either to their supervisors, to a confidential integrity counsellor or to the Integrity Reporting Centre.

60. The Integrity Reporting Centre comprises four employees, one of them being the integrity coordinator. Its role is to handle reports and to give advice. To further facilitate the reporting process, two confidential integrity counsellors have been also appointed. One of them is internal and the other is external to the organisation. The external counsellor is a former employee, who knows the organisation well. The two counsellors meet regularly with the integrity coordinator and discuss integrity matters, although the substance of ongoing misconduct investigations is not discussed and the counsellors are not involved in such investigations. All these procedures are put in place to ensure that any practices of favouritism or corruption will be either prevented or will be detected at a very early stage and will be properly dealt with.

5.3.2 City of Amsterdam, Netherlands

61. The main objectives of the Integrity Bureau of the City of Amsterdam are to safeguard and promote the organisational integrity and ethics culture. In doing so, the Bureau is tasked with: conducting internal investigations, carrying out risk analysis and providing training and advice. In 2015, the screening of external parties, which the City of Amsterdam does or wishes to do business with, was added to these functions.¹⁶

14 The Dutch Civil Service Law requires that all competent authorities at government, provinces, municipal and water board levels pursue integrity policy aimed at promoting proper conduct of civil servants, prevent conflict of interest, discrimination and abuse of power. Such policy should become integral part of the authority human resource policy.

15 For more information see: Stout A. (2016) 'An organisation with integrity: feasible or a question of ideals? On the design of the integrity position within the Hellevoetsluis municipal authority' in L. Huberts and A. Hoekstra (eds.) *Integrity management in the public sector. The Dutch approach*, BIOS, Netherlands. Available at: http://www.integriteitoverheid.nl/fileadmin/BIOS/data/Publicaties/Downloads/integrity_hoofdstuk_8.pdf

16 For more information see: 'Integrity Part of day-to-day practice in the City of Amsterdam' in L. Huberts and A. Hoekstra (eds.) *Integrity management in the public sector. The Dutch approach*, BIOS, Netherlands. Available at: http://www.integriteitoverheid.nl/fileadmin/BIOS/data/Publicaties/Downloads/integrity_hoofdstuk_9.pdf

62. The Integrity Bureau is divided into four main pillars: investigations; risk analysis; screening, and training and advice and integrates in its structure the Integrity Violation Reporting Centre and the Central Confidential Integrity Advisor.

63. The Integrity Violation Reporting Centre is a key subdivision, which supports the work of the investigation section. The Centre is open to the employees of the administration of the City of Amsterdam, its councillors, private citizens and companies. Its main role is to receive and record signals about possible integrity breaches. Such reports may concern: conflicts of interest; manipulation or abuse of (access to) information; abuse of powers or position; incompatible positions, commitments and activities; inappropriate conduct: sexual harassment, discrimination, aggression and violence; criminal offences during working hours, such as theft, fraud or corruption; criminal misconduct outside working hours; waste and misuse of municipal property or any other breaches of integrity.

64. The figure of the Central Confidential Integrity Advisor also plays an important function in upholding the integrity of the municipal authority. The role of the advisor is to coordinate and supervise the integrity work within the City of Amsterdam by recruiting and selecting confidential integrity counsellors, organising training and providing guidance on difficult cases. The advisor is also the individual confidential integrity counsellor for people who are unable or unwilling to contact one of the local confidential integrity counsellors.

65. The local confidential counsellors act as referral officers and advisers. They are trained to identify integrity issues and to provide advice to employees, thus helping them to address integrity issues by themselves. They provide a listening ear and can offer support in the determination of any follow-up steps.

66. The work of these structures is supported by the Risk Assessment Unit, which conducts regular risk assessments of the working processes. The assessments are focused on the adequacy and efficiency of the measures that are set to mitigate possible integrity risks and are based on the expertise and practical observations of the bureau staff and their discussions with the job holders regarding the risks and the vulnerabilities of their work. These assessments aim to provide practical measures for mitigation possible integrity violations. They are based on the notion that the implementation of any integrity policy, capable of preventing favouritism and any other forms of corruption requires:

- a strong organisational culture;
- strong leadership which serves as moral example, promotes integrity and supports risk identification and mitigation measures;
- barriers to potential misconduct, such as job segregation and job rotation, and improvement of internal control.

67. The Integrity policy, promoted by the City of Amsterdam, is based on the notion that training, prevention and enforcement should go hand in hand to ensure ethics compliance. The main building blocks of the integrity policy are presented below:



Source: Kooistra J. (2016) 'Integrity Part of day-to-day practice in the City of Amsterdam' in L. Huberts and A. Hoekstra (eds.) Integrity management in the public sector. The Dutch approach, BIOS, Netherlands.

6 Conclusions and policy recommendations

68. Preventing nepotism and other forms of favouritism in the recruitment procedures is a key precondition for delivering corruption free, effective and efficient local governance. Given the different administrative and cultural peculiarities of every region/country, the policy for corruption prevention should reflect on the specific risks and vulnerabilities of each particular organisation. Yet, notwithstanding the different context, employment modalities and structural systems, some unified standards for preventing undue influence in the selection and recruitment procedures at national, regional and local public structures coexist along the good practices. These standards are outlined in several Council of Europe and UN policy and legal documents, the most important of them being UNCAC and the Model Code of Conduct.

69. Local and regional authorities who wish to vigorously counteract favouritism in their recruitment and other human resource processes should strive to develop a systemic approach based on the: identification of possible risks; establishment of strong preventive mechanisms; ensuring policy compliance, reporting and sanctioning of misconduct. Such approach may include the following steps:

- Conducting ethics audit/assessment of corruption risks in the recruitment and selection processes to identify weaknesses or/and potential gaps between the normative framework and its implementation. The audit/assessment should suggest possible risk mitigation measures and should serve as a foundation of the recruitment and selection policy;
- Establishment of merit based recruitment and selection processes which provide equal access/opportunities to all interested applicants; value the skills and knowledge of the individuals; and appreciate ethics attitude/behaviour. The recruitment processes should be transparent and built in a way that allows for the best candidate for each particular position to be selected;
- Establishment of policy, which guarantees that any real, perceived or potential conflict of interests in the recruitment procedures will be avoided. Such policy should ensure that no public official will be involved in a selection and recruitment of any candidate with who he/she may be deemed to be in any form of relationship that may create conflict of interests;
- Establishment of integrity supporting structure(s) such as integrity councillors/advisors/bureau. Such structures may provide professional advice to the management and guidance for the public officials. They may be used as independent observers during the selection processes and/or as structures responsible for monitoring of the conflict of interest declarations;
- Establishing reporting channels and adopting guidelines for reporting cases of (suspicious) misconduct. These channels should be well advertised and opened to the general public and

employees of local and regional administrations. The confidentiality and anonymity of the reporting persons should be guaranteed.

Some tips:

- ✓ Adoption of a clear and comprehensive recruitment and selection policy is of key importance. Such policy (and its respective guidelines) should provide an easy reference to both applicants and staff involved in the recruitment and should include a step by step description of the entire process. It is of utmost importance that the recruitment and selection is unambiguous, transparent for all parties involved and crafted in a way to attract the best suitable candidates (for some practical steps see also the UNCAC Technical Guide);
- ✓ It is a good practice to oblige all public officials, involved in selection and recruitment to sign a declaration, confirming the lack of any present or past relationship and real or potential conflicts of interest with the applicants. To avoid misunderstanding of the notion of conflicts of interest and its dimensions, a guideline or reference notes may be provided;
- ✓ The involvement of an external party (civil society organisation) in the conduct of ethics audits and risk assessment is a good practice, which will demonstrate the strong organisational commitment and openness of the authority to receiving feedback and policy suggestions.