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## COUNCIL OF EUROPE COOPERATION PROGRAMME

Ethics for the Prevention of Corruption in Turkey (TYEC)  
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## SECOND REVIEW OF THE COUNCIL OF ETHICS FOR PUBLIC SERVICE

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## **INTRODUCTION**

This working paper discusses the legal and institutional context of the work of the Council of Ethics for the Public Service before focussing on the Council's procedures and working practices and the implications for future directions. It builds on a previous review of the structure, work and capacity of the Council.

## **CURRENT CONTEXT AND ISSUES**

### **1. THE CURRENT WORK OF THE COUNCIL**

The Council of Ethics consists of eleven members elected by the Council of Ministers for a period of four years and a similar number of staff in the Secretariat. The tasks of the Council are:

- to determine whether public officials adhere to the Code of Ethics while performing their duties;
- to investigate claims that the principles of the Code have been violated by a senior public official with a minimum rank of general manager or equivalent<sup>1</sup>;
- to inform the relevant authorities on the results of such investigations;
- to carry out or to commission studies and research which help establish a culture of ethics throughout the public administration.

At present, the capacity of the Council is limited by the resources made available to it. In relation to the implementation of the Code, the Council currently is able to handle the small number of allegations that fall within the scope of the Code (from about 150 received); approximately 60 a year covering: personnel issues; breaches of official duty; misuse of public resources; plagiarism; nepotism; fairness; access to information; corruption and denial of equity.

Allegations are reviewed as to the rank of the public official involved and the nature of the possible offence. Allegations which may involve a criminal element must be redirected to the Prosecutors Office while those relating to lower-level public officials are sent to the institution concerned (and a report later received). Allegations which fall within the remit of the Code are agreed by the Council for investigation which, at present, involves a request for information from the institution concerned and a decision by the Council on whether or not a breach of the Code and whether or not the sole sanction should be imposed. To date, no sanction has been imposed.

As to the other areas of responsibility, the Council undertakes seminars, work with agencies, and conducts reviews, but there has been no systematic review of ministries' approach to the ethical environment.

### **2 MAIN AREAS OF CONCERN INVOLVING THE CURRENT WORK OF THE COUNCIL**

These come under three categories:

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<sup>1</sup> See the list in Appendix 2 of the Code of Ethics. Complaints on other categories of officials received by the Ethic Council are forwarded to the disciplinary authority of the respective institution without further investigation by the Council.

## **2.1 Law and Code**

The law is relatively broad, giving the Council two main roles – determination of a Code and investigation of any breaches (for which it has powers to access witnesses, documents and other information), and wider reviews of ethical environments.

The law takes a very broad view of ethics, covering not only public duty/private interests breaches but also discrimination and maladministration breaches.

The law provides for only one sanction for proven breaches although it does provide the right of appeal.

## **2.2 Institutional Location and Resources**

The Council of Ethics is located within the Prime Ministry. Its budget and staffing are within the gift of the Prime Ministry; most of the Secretariat are career public officials seconded without selection. While the Council has independence in receiving and conducting inquiries into breaches and in conducting relations with other agencies within and outside the public sector and, as such, may determine its own strategy, there are a number of issues that restrict its effectiveness, particularly in terms of resourcing.

## **2.3 Inter-institutional Relations**

The law provides for the establishment of Ethics Commissions in each Ministry. The Council has proposed these, and a number of ministries have set them up. On the other hand, the law does not specify the exact roles of the Ethics Commissions, nor the responsibilities or reporting relationships between them and the Council. Further, the Ethics Commissions are dependant on resources from within their ministries.

## **3. THE FUTURE OF THE COUNCIL**

The Council has acknowledged the need to review its roles and responsibilities. Members recognise the current restrictions, whether the lack of resources or the single sanction, on its activities. They also recognise the need for extensive education and training on ethics, as well as more cooperation and coordination with other agencies. While several members see the Council undertaking all 3 main roles – investigation, awareness and prevention – there is some divergence over which of those should be the primary role or roles of the Council (and thus where any new resources would be allocated).

In discussions, the main areas to expand and develop the work of the Council, as perceived by Council members, include:

- to develop an effective investigative capability, including addressing the issue of parallel investigations;
- to extend the range of sanctions;
- to develop training and awareness roles, particularly through media campaigns;
- to expand the remit of the Code to universities;
- to work with the Legislature, Judiciary and armed forces to develop their own Codes of Ethics;
- to encourage ministries to report on their work on developing an ethical environment;
- to develop a research capability and an approach to prevention.

On balance, the predominant view of the future role of the Council was to focus on a preventative role in relation to ministries and other public bodies over their work in implementing the Code and developing an ethical framework. This would include:

- receiving annual self-assessments and risk assessments from ministries;
- working with ministry Ethics Commissions to establish training programmes;
- monitoring training programmes;
- liaising with Inspectorates over data on corruption and ethical breaches;
- liaising with Inspectorates and Ethics Commissions over the development of ethical environments;
- undertaking research;
- carrying out proactive reviews of ethical environments;
- supervising the roles and responsibilities of Ethics Commissions.

Allegations of breaches of the Code would be received by the Council but most investigations would be undertaken by the Ethics Commissions or Inspectorates on behalf of the Council. The Council would investigate the most serious or sensitive cases, retain a monitoring role over the investigative work within ministries, and receive reports on the outcome.

#### **4. THE CURRENT SITUATION OF THE COUNCIL**

The principal findings of the first report are as follows:

- The Council has an important role to fulfil and can make a substantial contribution to promoting ethical principles and standards of ethical conduct in the Turkish Public Services at national and provincial levels.
- At present its legal powers and the resources that it are required to implement the Code are insufficiently clear or strong enough to support the Council's ability to fulfil its legal mandate.
- The Council's reputation is weakened by the inability to apply appropriate sanctions.
- The Council's legal standing is weakened by its lack of institutional independence and its current level of capacity and resources.
- The CoE's relative authority and unclear working relationships with Ethics Commissions, Inspection Boards and Disciplinary Boards further constrains the CoE's activities and their potential efficacy.
- The current level of capacity and resources will be unable to sustain, in equal measure and at acceptable minimum levels the CoE's three functions of: ethical standards development, complaints investigation and public awareness. This will be further exacerbated if major public awareness campaigns are implemented in advance of the level of capacity being developed to enable the CoE to respond to any increase in the number of complaints and denunciations received.

### **OPTIONS**

#### **1. OPTION 1: EXPANDING THE COUNCIL'S CURRENT WORK**

Under this option, the Council continues its role, focussing primarily on breaches of the Regulation. It will require some additional staffing resources, trained or to be trained, in investigating breaches. In addition it would require, as noted in part of the earlier review, clarity and differentiation within the Regulation so that the Council would concentrate on key ethical breaches. It would also require a greater range of sanctions, as stated in the earlier review. It would create a more significant relationship with Ethics Commissions which would

investigate minor breaches of the Regulation, or those breaches delegated to them for investigation, under the overall supervision of the Council.

The Council would act as the appeal venue for cases investigated by the Ethics Commissions and take responsibility for overall case management, investigative processes and the fairness, independence and transparency of the work of the Council. The advantages would be:

- Retention of current membership who are experienced in their roles
- Limited increase in staffing
- Building on existing work and visibility
- Building on work with the Ethics Commissions
- Limited legislative change.

## **2. OPTION 2: THE COUNCIL AS THE AGENCY RESPONSIBLE FOR A NATIONAL CORRUPTION PREVENTION POLICY**

One of the options discussed in the earlier review was for the Council to take on the main role of the prevention of corruption. The Council would need to take responsibility for the development of a uniform and consistent policy by ministries to the prevention of corruption and the promotion of public ethics (and especially the Regulation). For the Council, the key areas of responsibility will be:

- development of a national prevention of corruption policy and the promotion of public ethics,
- requiring public service institutions to produce action plans to address the prevention of corruption and the promotion of public ethics;
- working with Inspectorates and Ethics Commissions;
- undertaking reviews of institutions;
- publishing league tables or 'corruption prone' reports on the public sector;
- undertaking research into legislation and administrative procedures and prevention of corruption approaches;
- taking evidence on and hearings for an annual review of progress on the strategy or action plans;
- taking evidence on and hearings for systematic review of progress on a national prevention of corruption policy, and publishing reports;
- reviewing complaints from the public;
- undertaking inquiries into complaints or delegating and monitoring inquiries by other institutions,
- reviewing the Code.

The disadvantages would be:

- A new institution with considerable staffing and resources costs
- Another agency would have to deal with the implementation of the Regulation
- Specific legislation would be required to ensure the relevant powers
- New areas of expertise at Board level would be required.

## **3. OPTION 3: THE COUNCIL COMBINES ITS FUNCTIONS WITH THOSE OF AN OMBUDSMAN**

Turkey proposed legislation to establish the Office of Ombudsman in 2006 but this was vetoed by the then President on the grounds that the law would be unconstitutional (the issues concerned the Office acting as a public agency of the Parliament, and Parliament also

appointing the Ombudsmen). This section discusses whether or not there is an opportunity to consider combining the two functions – ethics and maladministration – into a single agency.

### **3.1 The Ombudsman Function**

The role of the Ombudsman is, to use the words relating to the recently-created Office of European Ombudsman, to address maladministration which is defined as: maladministration occurs when a public body fails to act in accordance with a rule or principle which is binding upon it”.

### **3.2 Can Ombudsman have an Ethics Function?**

The two defining characteristics of an Ombudsman is that it represents the citizen against the arbitrary use of authority by a public official acting on behalf of the state and its sanctions is not against the official but the public body that official represents. A third characteristic is that the Ombudsman often does not have the power to impose executive sanctions but can only recommend that the public body rectify the decision or action, or compensate the member of the public for the consequences of that decision or action.

Agencies that deal with ethical issues may also receive complaints from the citizen but that complaint:

- Is about conduct that would not be approved or authorised by the state;
- Is about conduct that the state would also disapprove;
- May involve criminal decisions or actions;
- May lead to sanctions against the individual public official.

In most countries, therefore, the work of an Ombudsman and an agency dealing with ethics is separate. Indeed, those countries which have Public Standards Commissions which deal with ethical and service standards are also likely to have a separate Ombudsman institution. In a limited number of countries, however, there are agencies which combine both an ethics and a maladministration function.

### **3.3 Examples of Combined Functions**

#### **3.3.1 *The WALES PUBLIC SERVICES OMBUDSMAN<sup>2</sup>***

This agency was established to cover all public services delivered by public bodies in Wales, United Kingdom. This included existing responsibilities for a Code of Conduct applied to elected local officials and appointed public officials in a designated group of public bodies. Matters which may be investigated by the Ombudsman include:

maladministration involving:

- alleged maladministration by a listed authority in connection with relevant action;
- an alleged failure in a relevant service provided by a listed authority;
- an alleged failure by a listed authority to provide a relevant service.

conduct of elected members of county and county borough councils; community councils; and fire authorities, police authorities and national park authorities - where all these authorities have a code of conduct which sets out in detail how members must follow recognised principles of behaviour in public life.

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<sup>2</sup> [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)

### 3.3.2 *The NORTHERN IRELAND POLICE OMBUDSMAN*<sup>3</sup>

This body provides an independent, impartial police complaints system for the people and police under the Police (Northern Ireland) Act 1998 and 2000. It deals with (a) complaints from people about how police officers do their jobs and (b) complaints about how the police behave when they are doing their job (including complaints may involve allegations of criminal behaviour by a police officer, or allegations that a police officer broke the police code of conduct).

### 3.3.3 *The EAST TIMOR OMBUDSMAN FOR HUMAN RIGHTS*<sup>4</sup>

The 2002 Constitution created the Ombudsman, as part of the chapter on "Fundamental Rights, Duties, Freedoms and Guarantees." A subsequent law established the Office of the Ombudsman for Human Rights and Justice (*Provedor de Direitos Humanos e Justica*) pursuant to this constitutional provision. The law:

- establishes an independent and accountable body.
- gives the Provedor three distinct areas of responsibility: maladministration, human rights protection and anti-corruption.
- as regards the area of anti-corruption, makes the Provedor responsible for taking forward the three elements of the national anti-corruption strategy, namely enforcement, prevention and public education and support.
- provides the Provedor with powers to investigate, and leaves the prosecution and trial of offences to the organs of state normally responsible for those functions.
- provides an autonomous budget from public funds voted by the Legislature and allows the body to accept funds from other suitable sources.
- provides for the appointment and tenure of the Provedor and Deputy Provedor.
- makes the Provedor the appointing and disciplinary authority of the staff of the Office.

The Office is an independent institution that operates outside the government and reports to the National Parliament. In 2005 the National Parliament appointed the first holder of the office (known as the Provedor). Subsequently, the Provedor appointed two deputies (one focusing on Human Rights and Justice, and another on Good Governance and Anti-Corruption). The Office of the Provedor is mandated to protect the rights, liberties, and legitimate interests of persons affected by acts of government agencies or private contractors operating a public service or managing public assets on behalf of the government. It is also mandated to provide education on human rights and justice, and promote good practices in government entities. It has three specific areas of concern: human rights, good governance, and anti-corruption. The law empowers the Office of the Provedor to promote, monitor, investigate cases, and provide advice on human rights and good governance; and to fight corruption and influence peddling. It also has the power to access facilities and premises; secure documents, equipments, goods or information for inspection; and interrogate any person who is related to the complaints before it.

Since it started operating in early 2006, the Office of the Provedor received more than one hundred cases related to corruption, human rights violations and good governance. Under the law that created it, the Office of the Provedor recommends (after investigation) to the competent government agencies what measures to take to remedy the problems. But so far the Office of the Provedor has not been able to issue any recommendation on the cases

<sup>3</sup> [www.policeombudsman.org](http://www.policeombudsman.org)

<sup>4</sup> Drawn from Guteriano Nicolau in 2007 in La'o Hamutuk (Instituto Timor Lorosa'e ba Analiza no Monitor Rekonstrusaun/The East Timor Institute for Reconstruction Monitoring and Analysis) and the 2006 Alkatiri Initiative Review Mission of Experts on Transparency and Accountability.

before it. The Office of the Provedor can only submit recommendations regarding measures to protect human rights. Their recommendations relating to crimes have to be implemented by the General Prosecutor. However, under the current law, the General Prosecutor does not have the legal obligation to execute the recommendations of the Office of the Provedor.

### **3.3.4 The PAKISTAN OMBUDSMAN (MOHTASIB)<sup>5</sup>**

The office of Federal Ombudsman was created to deal with maladministration and corruption. The Ombudsman is appointed for a term of 5 years by the President and his/her role is to diagnose, investigate, redress and rectify any injustice done to a person through maladministration. Either the president, the National Assembly or the Ombudsman himself has the right to initiate an inquiry into a matter. The office was initially set up at federal level with regional offices at Lahore, Karachi, Peshawar and Quetta. It does not have jurisdiction to take up complaints against the Defence Division, Defence Production Division, land, sea and air forces and any other department, section, authority or organisation which directly or indirectly deals with the defence establishment. The primary objective of the office is to institutionalize a system for enforcing administrative accountability.

#### **3.3.4.1 Meaning of Maladministration**

Under the 1983 legislation, maladministration means

- (i) a decision, process, recommendation, act of omission or commission which:
  - (a) is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is *bona fide* and for valid reasons; or
  - (b) is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
  - (c) is based on irrelevant grounds; or
  - (d) involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, jobbery, favouritism, nepotism and administrative excesses; and
- (ii) neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.

#### **3.3.4.2 Powers**

The Ombudsman may, on a complaint by any aggrieved person, on a reference by the President, the Federal Council or the National Assembly, as the case may be, or on a motion of the Supreme Court or a High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of mal-administration on the part of any Agency or any of its officers or employees. The agency has law enforcement powers of search, seize, access to witnesses and documentation, as well as powers to commit for contempt.

#### **3.3.4.3 Sanctions**

In cases of proven mal-administration, the Ombudsman shall communicate his findings to the Agency concerned to act as follows:

- to consider the matter further,
- to modify or cancel the decision, process, recommendation, act or omission;
- to explain more carefully the act or decision in question;

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<sup>5</sup> [www.mohtasib.gov.pk](http://www.mohtasib.gov.pk)



- to take disciplinary action against any public servant of any Agency under the relevant laws applicable to him;
- to dispose of the matter or case within a specified time;
- to take action on his findings and recommendations to improve the working and efficiency of the Agency within a specified time; or
- to take any other step specified by the Ombudsman.

The Agency shall, within such time as may be specified by the Ombudsman, inform him about the action taken on his recommendations or the reasons for not complying with the same. If after considering the reasons of the Agency in respect of his recommendations, the Ombudsman is satisfied that no case of mal-administration is made out he may alter, modify, amend or recall his original recommendations.

The Ombudsman may, where he deems necessary, call upon a public servant, other functionary or any Agency to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any maladministration committed by such public servant, other functionary or agency, and after considering the explanation, and hearing such public servant, other functionary or Agency, award reasonable costs or compensation and the same shall be recoverable as arrears of land revenue from the public servant, functionary or Agency.

In cases involving payment of illegal gratification by any employee of any Agency, or to any other person on his behalf, or misappropriation, criminal breach of trust or cheating, the Ombudsman may order the payment thereof for credit to the government or pass such other order as he may deem fit.

### **SETTING UP AN OFFICE FOR PUBLIC STANDARDS?**

The question of sanctions will be dealt with as a separate working paper since the issue remains the same under the legislation, irrespective of the future institutional shape of the Council. This section therefore addresses the feasibility of Option 3.3 above.

#### **1. Ethics and Ombudsman**

There is no fundamental reason why there cannot be an agency that combines the Office of the Ombudsman and the work of the Council of Ethics for Public Service. There are a number of reasons why a combined office may be effective in the Turkish context (the name Office for Public Standards is used to illustrate a combined office).

First, the current Law and Regulation governing the Council in fact covers conduct that relates to public ethics but also to wider conduct that relates to the performance of public duties and delivery of public functions – see **Annex**. In a number of cases there may be confusion in terms of an allegation as to whether the conduct of a public official is caused by incompetence or negligence – or something more corrupt, such as acting in a way that encourages payment of a bribe or gift to facilitate action on the part of the public official. Similarly, an investigation into maladministration may determine that the cause is related to ethical issues and not to those of poor administrative practice.

Second, the current resourcing of the Council is inadequate. Resourcing of the Office of the Ombudsman may also be lower than necessary. There are economies of scale on combining offices where administrative, secretarial and clerical staff, office space and office equipment can be shared. If many of the allegations or complaints are unclear as to the exact nature and cause of the problem, a combined intake process that then allocates inquiries *within* an organisation is more effective than *between* organisations. Finally many of the inquiry

processes and techniques will be common to the investigation of maladministration or ethical breaches. A pool of investigators to allow differences in workloads to be balanced. Overall a combined agency could be large enough in terms of budgets and staffing to have an impact across the Turkish public sector.

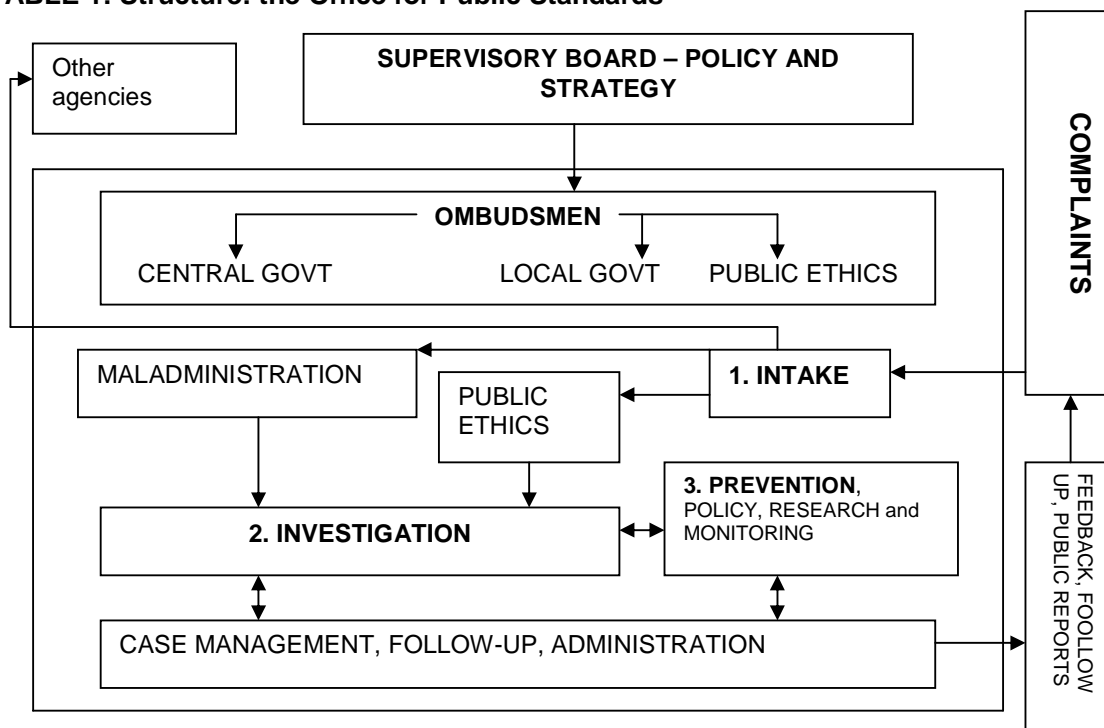
Externally the Office for Public Standards should be independent from location in any particular ministry, with its own offices and agreed budget. This will allow the Office for Public Standards to determine its own way of working and allow it to develop its working relations with ministries, Inspectorates and Ethics Commissions.

Finally in terms of promoting a better ethical environment and improving the public standards across the Turkish public sector, an agency that deals with both areas will be much better placed to incorporate the functions under Option 2. above to deliver an effective prevention of corruption and quality of public standards strategy.

**1. Structure**

Within the terms of the proposed legislation for the Office of the Ombudsman and the existing legislation for the Council of Ethics for Public Service the possible organisational structure could be as described in Table 1:

**TABLE 1: Structure: the Office for Public Standards**



Complaints would come to a central intake unit (1) who would decide as follows:

1. Does the complaint satisfy the following requirements:

- The complaint is made by a citizen of the Republic of Turkey and a foreign natural persons dwelling in Turkey;
- the complaint is not subject of any examination or adjudication by other bodies;
- the complaint is made through the means of: a letter; an email or fax; an oral application that is officially recorded;

- as far as possible, details and documents relating to the complaint and defining person, time and place should be provided (all documentation must be obtained legally);
- the name and surname, the residence and business address of the applicant are provided (for applications by foreigners residing in Turkey, the passport number and nationality shall also be provided).
- Has the complainant requested confidentiality?
- does the complaint relate to an Article of the Code?
- the complaint concerns an official who at least holds a post of general manager rank or a rank equal to the level of a general manager in a public body;
- Is the person complained about, holding the position stated?

2. What should happen to the complaint:

- does not fall within the remit and passed to another agency;
- requires further information;
- does fall within the remit of the Agency but is unsuitable for inquiry (for example, the lack of documentation or the triviality of the complaints);
- is to be investigated.

3. Which part of the Regulation appears to be breached:

- to determine whether it should be investigated as maladministration or as a public ethics breach.

If considered that the complaint comes within the remit of the Office for Public Standards **and** satisfies the criteria above, the complaint is passed to the relevant Ombudsman for investigation (2) within a stated timescale and following the procedures laid down in the *Complaints: Guide To Possible Inquiry Procedures* working paper already completed for the project.

The investigator’s report will be submitted to the relevant Ombudsman for a decision and any relevant sanctions –see *Complaints: Guide To Possible Inquiry Procedures* working paper. The relevant Ombudsman will also make the decision on whether the seriousness or complexity of any case relating to public ethics will determine whether the Office for Public Standards or the ministry Ethics Commission investigates the case<sup>6</sup>. All other proposals, for example, contacting the complainant, shall also be followed as laid down on the *Complaints: Guide To Possible Inquiry Procedures* working paper. All decisions and proposed sanctions shall be followed-up to ensure implementation. Appropriate appeals procedures will be set up.

The role of the prevention, policy, research and monitoring section (3) falls into two areas – prevention and ethics training as follows:

PREVENTION	TRAINING STRATEGY
<ul style="list-style-type: none"> <li>• development of a national prevention of corruption policy and the promotion of public ethics,</li> <li>• requiring public service institutions to produce action plans to address the prevention of corruption and the promotion of public ethics;</li> </ul>	<ul style="list-style-type: none"> <li>• create and maintain a pool of competent trainers with a working knowledge of ethical principles and the legal and regulatory framework for the public service.</li> <li>• build a positive working relationship between the agency and the Ministry and Governorate Ethics Commissions, to to develop the</li> </ul>

<sup>6</sup> The question of whether Ethics Commissions should become Public Standards Commissions in each ministry and also handle minor maladministration complaints should be considered.

<ul style="list-style-type: none"> <li>• working with Inspectorates and Ethics Commissions;</li> <li>• undertaking reviews of institutions;</li> <li>• publishing league tables or 'corruption prone' reports on the public sector;</li> <li>• undertaking research into legislation and administrative procedures and prevention of corruption approaches;</li> <li>• taking evidence on and hearings for an annual review of progress on the strategy or action plans;</li> <li>• taking evidence on and hearings for systematic review of progress on a national prevention of corruption policy, and publishing reports;</li> <li>• reviewing complaints from the public;</li> <li>• undertaking inquiries into complaints or delegating and monitoring inquiries by other institutions,</li> <li>• reviewing the Law and Regulation.</li> </ul>	<p>training programme in order to promote attendance and to generate follow-up activities.</p> <ul style="list-style-type: none"> <li>• schedule and deliver efficient and effective training cascades to senior managers in ministries and governorates.</li> <li>• ensure that the ethical principles promoted in the training are sustained and consolidated.</li> <li>• reinforce the effectiveness of training via a functioning ethics system.</li> <li>• complete the training cascade throughout all areas and tiers of the relevant ministry</li> </ul>
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## 2. WORKLOAD

Workload determines staffing levels; front-line staffing levels – intake, investigation and prevention – determine support staff levels. Total staff levels determine equipment and office space. The possible distribution of work categories are approximately equal - as follows:

**Table 2: Areas of Work**

ARTICLE	OMBUDSMAN	PUBLIC ETHICS	ARTICLE	OMBUDSMAN	PUBLIC ETHICS
5	-	-	18	✓	-
6	✓	-	19	✓	-
7	✓	-	20	✓	-
8	-	-	21	-	✓
9		✓	22	-	✓
10	✓	-	23	-	-
11	✓	-	24	-	-
12	-	✓	25	-	-
13	-	✓	26	-	-
14	-	✓	27	-	-
15	-	✓	28	-	-
16	-	✓	29	-	-
17	✓		30	-	-

In terms of the work of the Office for Public Standards, complaints are reactive – the workload of the Office cannot be assessed until the possible level of complaints is known. Without previous experience it is difficult to model likely demand and thus workload. An assumption should be that breaches of ethics may double to 300 and maladministration complaints are likely to be to a factor of 10 – a base of 3000 a year.

**3. STAFFING AND RESOURCES**

Without modelling 2. above it is not possible to assess accurate staffing requirements. On the basis of estimated figures above, the possible staffing complement should be:

<b>Staffing Type</b>	<b>Number</b>
<b>Board – Part-Time</b>	10
<b>Ombudsmen – Full-Time</b>	11
<b>Intake Section</b>	10
<b>5 Heads Of Investigation</b>	5
<b>11 Investigation Teams X 5</b>	55
<b>Prevention:</b>	
<b>Research</b>	10
<b>Monitoring</b>	10
<b>Training</b>	10
<b>Follow-Up</b>	5
<b>Admin Support (No More Than 25% Of Operational Staff)</b>	35
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**4. NEXT STEPS**

The concept of a combined office of the Council of Ethics for Public Service and the Ombudsman needs to be agreed to consider the next steps, including:

- What legislative changes are necessary;
- What would be the terms of reference for the functions of the new Office;
- What resources would be needed;
- Where experience and new staff would need to recruited;
- What procedures need to be put in place;
- What office and case management equipment is needed;
- What appeal and other external procedures would be required.

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<b>ANNEX</b>				
<b>ARTICLE</b>	<b>THEME</b>	<b>CONTENTS</b>	<b>RESPONSIBILITY</b>	<b>COMMENTS</b>
<b>5</b>	<b>Consciousness of public service in performance of a duty</b>	Constant development, participating, transparency, impartiality, honesty, protecting the public interest, accountability, predictability, fitness in service and confidence in statement should guide public officials in performance of the public services.	Promoted by the New Agency and Ethics Commissions.  Investigation - none	This is a broad generic work-related requirement that focuses on the overall ethical conduct of a public official. Other Articles take a more detailed view of the issues involved. It does not lend itself easily to investigation. The Article best serves as a mission or values statement to begin the Code.
<b>6</b>	<b>Consciousness of serving the community</b>	In performance of the public services the public officials should aim at facilitating the daily life of the community, meeting public needs in the fastest and the most active and effective way, increasing the quality of the service, increasing the satisfaction of the community, focusing on the requirement of those benefiting from the service and on the results of services.	Promoted by - the New Agency and Ethics Commissions.  Investigation of breach – Ombudsman section	This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is a service delivery statement that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, audit or internal inspection units as it relates to public service delivery.
<b>7</b>	<b>Compliance with the service standards</b>	The managers and other personnel of the public institutions and organizations should perform the public services in accordance with the determined standards and processes, inform those benefiting from the services by giving essential explanatory information about the work and transactions during the service processes.	Promoted by - the New Agency and Ethics Commissions.  Investigation of breach – Ombudsman section	This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is a service delivery statement that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, audit or internal inspection units as it relates to public service delivery.
<b>8</b>	<b>Commitment to the Objective and Mission</b>	Public officials should behave in accordance with the objectives and mission of the institutions and organizations that they work in. They should act in compliance with the interest of the country, the welfare of the society and the service ideals of their institutions.	Promoted by the New Agency and Ethics Commissions.  Investigation - none	This is a broad generic work-related requirement that focuses on the overall ethical conduct of a public official. Other Articles take a more detailed view of the issues involved. It does not lend itself easily to investigation. The Article best serves as a mission or values statement to begin the Code.
<b>9</b>	<b>Integrity and Impartiality</b>	In all their actions and transactions public officials should act in accordance with the principles of lawfulness, justice, equity and	Promoted by - the New Agency and Ethics Commissions.	This Article addresses discrimination and conflict of interest in a non-financial context. Like financial conflict of interest it lies at the heart of the separation of private interests and public duty and should be the responsibility

		<p>integrity, they cannot discriminate with reasons such as language, religion, philosophical belief, political belief, race, sex etc. while performing their duty or providing services. They cannot act in a human rights violating or restricting way and cannot behave in a way obstructing the equal opportunity.</p> <p>Public officials should use their discretionary authority in accordance with public interest and service requirements away from all sorts of arbitrariness and in compliance with principles of impartiality and equality.</p> <p>Public officials should not treat the natural and legal persons in a prior or privileged and partial way breaching the principle of equality, should not act in a way aiming at the advantage or disadvantage of any political party, person or group, and should not hinder the policies, resolutions and actions of public authorities which are in compliance with the legislation.</p>	<p>Investigation of breach – Public Ethics section</p>	<p>of the Council to monitor and enforce. The requirements of the Article should also be integrated with that of Articles 13 and 14 since non-financial interests should also be disclosed and registered.</p>
<p><b>10</b></p>	<p><b>Respectability and confidence</b></p>	<p>Public officials should behave in a way that will establish confidence for the public administration and they should display with their behaviours that they deserve the confidence and reputation required by the duty. They should avoid behaviours that harm the sense of confidence of the community for the public service, raise doubts and impair the principle of justice.</p> <p>Public officials should act in accordance with the requirements of the service having the consciousness that serving the community is above all sorts of</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Ombudsman section</p>	<p>This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is very much a personnel issues that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, Personnel audit or internal inspection units as it relates to public service delivery.</p> <p>The clause discussing private interests should be amended.</p>

		<p>personal and private interests, they cannot misbehave to those who benefit from the service, neglect their work, perform double standard and be partial.</p> <p>Public officials who are in the position of director or auditor cannot behave arbitrarily, they cannot act in an oppressive, insulting and threatening manner, they cannot arrange reports which are not based on certain facts, they cannot demand service, opportunity or similar interests for themselves against legislation and cannot accept anything presented even there is no demand.</p>		
11	<b>Decency and respect</b>	<p>Public officials should treat seniors, subordinates, colleagues, other personnel and those benefiting from the service decently and respectfully and give necessary attention. They should direct them to the relevant unit or authorized person if the subject is out of their authority.</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Ombudsman section</p>	<p>This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is very much a personnel issues that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, Personnel audit or internal inspection units as it relates to public service delivery.</p>
12	<b>Notification to the competent authorities</b>	<p>Public officials, in the case that their acting against the principles of ethical behaviour which are determined in this Regulation or their carrying out illegal transactions or actions is demanded or when they learn or see such actions or transaction while performing their service, should notify the situation to the competent authorities.</p> <p>Supervisors of institutions and organizations should keep the identity of the public officials who notifies and take necessary steps in order to avoid any harm.</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>This Article is about internal reporting of breaches of public ethics standards. Those that wish to do so, should be able to contact either body. This Article is better suited to the Section on investigations.</p>



<p><b>13</b></p>	<p><b>Avoiding conflict of interest</b></p>	<p>Conflict of interest means all sorts of interests, financial or other liabilities and the situation of having such personal interests provided for the public officials, their relatives, friends or the person or organizations they deal with which affect or seem to affect their performance of the duty impartially and objectively.</p> <p>Public officials have personal responsibility in the conflict of interest and as they are the ones to personally know the situation in which conflict of interest may rise. They should proceed cautiously in any potential or real conflict of interest, take necessary steps to avoid conflict of interest, notify the situation to their seniors as soon as they realize conflict of interest and keep themselves away from benefits that are in the scope of conflict of interest.</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.</p>
<p><b>14</b></p>	<p><b>Not using the duty and authorities to derive benefits</b></p>	<p>Public officials cannot derive benefit in favour of themselves, their relatives or of the third persons by using their duty, title and authority and cannot intercede, favour their relatives, friends and fellow townsman, perform political nepotism, discrimination or nepotism of any kind.</p> <p>Public officials cannot have their or others' book, periodical, cassette, compact disc and any other similar products sold or distributed; cannot derive benefits to any organization, foundation, association or sports club by donations, help or similar ways.</p> <p>Public officials, when they are on duty or they leave the duty, cannot</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.</p>

		<p>use the official or secret information they acquired during performance of their duty or as a result of these duties in order to derive economical, political or social benefits for themselves, for their relatives or for third persons directly or indirectly, cannot explain this information to any institution and organization except from the competent authorities.</p> <p>Public officials cannot use the sources of the institution they work for in the election campaigns directly or indirectly or have those sources used.</p>		
<p><b>15</b></p>	<p><b>Prohibition of receiving gifts and deriving benefits</b></p>	<p>All sorts of goods and benefits which are accepted directly or indirectly whether having economical value or not and which affect or have the possibility to affect the fulfilment of their duties, impartiality, performance and decisions are within the context of gift.</p> <p>The basic principle for the public officials is not to receive or give gift and not to derive interest as a result of duty.</p> <p>Public officials cannot receive any gift or derive benefit from natural or legal persons who have work, service or benefit relationships related to the duty they perform, for themselves, their relatives or third persons or organizations directly or through an interceder.</p> <p>Public officials cannot give gifts by using the public sources, cannot send wreath or flowers to a natural or legal person except from official</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.</p>

		<p>day, ceremony and festivals; they cannot give out a notice of commemoration, make an announcement or a celebration which are not related to the service.</p> <p>Among the gifts given by the foreign persons and organizations according to the decency and protocol rules in the international affairs, saving for the provisions of article 3 of the Act numbered 3628, the ones that are below the limit of the said article are declared.</p> <p>a) Donations which mean contribution to the organization for which the public officials work, which will not affect the execution of the organization services in accordance with the law and which are received, provided that they are allocated for the public service, recorded in the fixed assets list of the organization and that they are declared to the public (except from the official car and other gifts received in order to allocate for the service of a specific public official) and the donations which are granted to the institution and organizations,</p> <p>b) Book, magazine, article, cassette, calendar, compact disc or such goods,</p> <p>c) Gifts or rewards acquired in publicly held competitions, campaigns and activities,</p> <p>d) Gifts having the value of souvenir which are given in publicly held conferences, symposium, forum, panel, meal, reception or similar activities,</p> <p>e) Advertisement and handicraft products which are distributed to</p>		
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		<p>everyone and which have symbolic value,</p> <p>f) Credits taken from financial organizations according to the market conditions,</p> <p>are outside the scope of the prohibition of receiving gifts.</p> <p>a) Gifts of greeting, farewell and celebration, scholarship, travel, cost-free accommodation and gift vouchers received from the people who have service or interest relations with the institution they work for,</p> <p>b) Transactions which are made from unreasonable prices according to the market price when buying, selling or hiring movable or immovable goods or service,</p> <p>c) All sorts of gifts including jewellery, clothes, food or any other goods given by those benefiting from the service,</p> <p>d) Loans and credits taken from the people, who have work or service relations with the institution,</p> <p>are within the scope of the prohibition of receiving gifts.</p> <p>The officials within the scope of this Regulation who are at least general director, equal to or above general manager notify the list of the gifts they received in the previous year and which are stated in the 5<sup>th</sup> paragraph of this article and (a) clause of the 6<sup>th</sup> paragraph to the Council until the end of January without waiting for any warning.</p>		
<p><b>16</b></p>	<p><b>Making use of public domain and sources</b></p>	<p>Public officials cannot use the public buildings, vehicles and other</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests</p>

		public domains and sources except for the public objectives and service requirements and can not have them used; they protect these and take necessary precautions to maintain them available for service at any moment.	Investigation of breach – Public Ethics section	from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.
17	<b>Avoiding extravagance</b>	Public officials should avoid wastefulness and extravagance in using the public buildings, vehicles and other public domains and sources, behave in an effective and economical manner while using the office hours, public domain, sources, labour force and opportunities.	Promoted by - the New Agency and Ethics Commissions.  Investigation of breach – Ombudsman section	This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is very much a personnel issues that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, Personnel audit or internal inspection units as it relates to public service delivery.
18	<b>Binding explanations and factitious statement</b>	Public officials while performing their duty cannot exceed their authority and make explanation, engagement, promise or attempts binding the institutions they work for, they cannot make a misleading and factitious statement.	Promoted by - the New Agency and Ethics Commissions.  Investigation of breach – Ombudsman section	This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is very much a personnel issues that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, Personnel audit or internal inspection units as it relates to public service delivery.
19	<b>Notification, transparency and participation</b>	Public officials should help the community to exercise their right to receive information. They should submit the information and documents upon the demand of natural and legal persons duly apart from the exceptions determined in The Law numbered 4982 on Right to Information.  Top executives should present their institutions' processes of tender, activity and audit report to the public opinion through acceptable means under the allowance of related laws.  Public officials should pay attention	Promoted by - the New Agency and Ethics Commissions.  Investigation of breach – Ombudsman section	As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.

		to provide that those who will be directly or indirectly affected from the decision unless there is a contrary legal provision contribute to one or some of the stages of the preparation of fundamental decisions on public services, maturation, decision taking and application of these decisions.		
20	<b>Managers' liability to render account</b>	<p>Public officials can render account about their responsibilities and liabilities while performing public services and they are always open and prepared for the public evaluation and audit.</p> <p>Executive public officials take the precautions required by their duty and authority in order to obstruct the transactions or actions that are inappropriate to the objectives and policies of the institutions on time.</p> <p>Executive public officials should take necessary steps in order to avoid the personnel under his/her authority from corruption. These steps should include practicing legal and administrative arrangements, making appropriate studies in training and notification; proceed cautiously about the financial and other difficulties which the personnel face with and being a model for the personnel with their personal behaviours.</p> <p>Executive public officials are responsible to provide his/her personnel with the appropriate education about the principles of ethical behaviour, to observe whether they abide by these principles, to view the life of the personnel incompatible with their income and to guide about the</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Ombudsman section</p>	<p>This is a work-related requirement that focuses on a particular aspect of a public official's performance of his or her duty. It is very much a performance and appraisal issue that should be assessed within the institution concerned and seen as part of the appraisal of a public official. Allegations of breaches would in other contexts be the responsibility of an Ombudsman, Personnel audit or internal inspection units as it relates to public service delivery.</p>

		ethical behaviour.		
21	<b>Relations with the former public officials</b>	<p>Public officials cannot make former public officials benefited from public services in a privileged way and cannot treat them in a privileged manner.</p> <p>The people who have left their public duties cannot be assigned directly or indirectly to a duty or work such as contractor, commissioner, representative, expert, interceder from the institution or organization they previously worked for -saving for the provisions and periods in the related Laws.</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.</p>
22	<b>Declaring property</b>	<p>Public officials should declare of property of the movable and unmovable goods, loans and credits belonging to themselves, their spouses and children under their custody as per The Law on numbered 3628 Declaring Property and Anti-Bribery and Corruption.</p> <p>The Council has the authority to investigate the declarations of property if it is necessary. The related persons and organizations (including banks and special finance houses) are responsible to give the requested information to the Council within 30 days at the latest with the aim of controlling the accuracy of the information in the declarations of property.</p>	<p>Promoted by - the New Agency and Ethics Commissions.</p> <p>Investigation of breach – Public Ethics section</p>	<p>As noted above this Article lies at the centre of public ethics dilemmas – the separation of private interests from public duties and responsibilities. This should always be the responsibility of the Council although it should be more specific on the issues of disclosure and registration of interests.</p>
23	<b>Abiding the Principles of Ethical Behaviour</b>	<p>Public officials are responsible to abide by the principles of ethical behaviour determined in this Regulation while performing their duty. These principles constitute one part of the legislation that arranges the employment of public officials.</p>	<p>Promoted by the New Agency and Ethics Commissions.</p> <p>Investigation - none</p>	<p>This is a broad generic work-related requirement that focuses on the overall ethical conduct of a public official. Other Articles take a more detailed view of the issues involved. It does not lend itself easily to investigation. The Article best serves as a mission or values statement to begin the Code.</p>

		<p>The public officials within the scope of this Law are responsible to sign the document "Ethical Contract" which comes up in Annex -1 in one month. This document is affixed to the employee file of the personnel.</p> <p>The authorized supervisors of the institutions and organizations evaluate the performance and file in terms of compliance with the principles of ethical behaviour arranged in this Regulation.</p>		
24	<b>Informing the Personnel</b>	<p>The personnel at all levels employed in the public institutions and organizations should be informed about the principles of ethical behaviour and the responsibility related to these principles as a part of the conditions in relation with the employment.</p>	<p>Promoted by the New Agency and Ethics Commissions.</p> <p>Investigation - none</p>	<p>Training will be part of the responsibilities of the individual ministries, particularly since the Article specifies that being informed about such behaviour is part of their terms and conditions of service</p>
25	<b>Establishing Ethical Culture and Training</b>	<p>The Council makes all sorts of studies about the establishment and development of ethical behaviour, have them made, arranges researches, inquiries, public opinion polls, scientific meetings and similar activities, prepares, coordinates, executes training programs for the public officials or cooperates with relevant ministries, other public institutions, organizations, universities, local administrations and non-governmental organizations in their fields about this issue.</p> <p>The managers of institutions and organizations should provide that the principles of ethical behaviour take place in the fundamental, preparatory and in-service training</p>	<p>Promoted by the New Agency and Ethics Commissions.</p> <p>Investigation - none</p>	



		programs for the public officials.		
26	<b>Principles of Institutional Ethics</b>	The principles of ethical behaviour determined in this Regulation should be practiced in the institutions and organizations within the scope. Furthermore, the institutions and organizations can submit their own principles of ethical behaviour according to the quality of the service or duty they perform under the audit and approval of the Council.	Promoted by the New Agency and Ethics Commissions.  Investigation - none	Under the supervision of the Council, it should be the responsibility of the Ethics Commissions to develop through various means – training, procedures, etc – an ethical framework within their own institutions.
27	<b>Authorization to request information and document</b>	Ministries, other public institutions and organizations are obliged to submit the information and documents demanded by the Council about the applications in due time.  The Council has the authority to call for the related representatives from private organizations and from the organizations within the scope of this Regulation and to receive information.	The New Agency	
28	<b>Authorization to investigate and to search</b>	The Council has the authority to make necessary investigations and researches about the behaviours and practices against the principles of ethical behaviour ex officio or upon the applications. The Council can gather information and document from institutions and organizations through competent authorities when necessary in order to be the basis for the investigation and research it will make about the behaviours and practices against the principles of ethical behaviour.  The Council executes its investigation and research within the framework whether the principles of ethical behaviour are	The New Agency	

		<p>violated or not. The Council concludes its investigation and research within three months at the latest.</p> <p>Furthermore the Council can perform activities, analysis and researches about the establishment and development of the principles of ethical behaviour in institutions and organizations.</p>		
29	<b>Ethics Commission</b>	<p>An ethics commission consisting of at least three people from the institution should be established by the top executive of the institution or organization in order to establish and develop ethical culture, to advise and direct about the problems the personnel face with about the principles of ethical behaviour and to evaluate ethical practices.</p> <p>The top executive of the institution and organization determines how long the members of the ethics commission will work and the other related matters. The information of curriculum vitae and communication of the members of the commissions should be notified to the Council within three months. Ethics Commission works in corporation with the Council.</p>	<p>Promoted by the New Agency and Ethics Commissions.</p> <p>Investigation - none</p>	
30	<b>Delivering Opinion</b>	<p>The Committee is authorized to deliver opinion about the problems faced during the practice of the principles of ethical behaviour.</p>	<p>The New Agency</p>	