

European Code of Ethics for Prison Staff

Context

1. The primary aim of the Council of Europe is to ensure that throughout the whole of the continent of Europe member states guarantee respect for the fundamental values of human rights, democracy and the rule of law. This was the aim of the ten founding member states over 60 years ago and it has remained unchanged as the Council expanded to 21, 35 and now 47 member states, stretching from the Atlantic to the Pacific. In doing so, it has never deserted its guiding principles, even when some of its members were facing extreme challenges.

2. Within the Council special attention has always been paid to ensuring that its founding values were applied in the area of criminal justice in general and of prisons in particular. Imprisonment is the most severe judicial sanction which can be imposed in any member state and the Council has always been clear that those who are in prisons are not to be excluded from its human rights values. Indeed, the Committee of Ministers has made several recommendations which apply specifically to those who are deprived of their liberty, notably in the European Prison Rules, most recently revised as Recommendation Rec (2006) 2.

The role of prison staff

3. Any discussion about prisons will often start from its physical aspects: walls, fences, a building with locked doors and windows with bars. However, the reality is that the most important aspect of a prison is its human dimension, and the two most important groups of people within it: the prisoners and the staff who look after them. The daily experience of life for prisoners is determined by their relationship with first line prison staff.

4. Prison work is demanding. Prisoners are not a homogenous group. Some will be a threat to the public; some will be dangerous and aggressive; others may try very hard to escape. Others are likely to be mentally disturbed, to suffer from addictions, to have poor social and educational skills and to come from the minority groups in society. The vast majority of prisoners will be adult males and national prison regulations are generally drafted with this majority in mind. However, there are other groups who have specific and different needs; they include, for example, women and young prisoners. In many European jurisdictions the traditional profiles of prisoners

have been changing in recent years. For example, foreign nationals now constitute a significant proportion in several member states, in some instances making up over half of the entire prisoner population. Another new challenge relates to the management of prisoners who require to be held in conditions of very high security.

5. Prison staff require great skill and personal integrity to deal with these disparate groups of prisoners in a professional manner. This means first of all that men and women who are to work in prisons need to be carefully chosen to make sure that they have the appropriate personal qualities and educational background. They then need to be given proper training in the principles which should underlie their work and in the human and technical skills which are required. Throughout their careers they should be given the opportunity to develop and expand these skills and to keep up to date with the latest thinking on prison issues.

6. Those with responsibility for prisons and prison administrations need to look beyond technical and managerial considerations. They also have to instil staff with a sense of vision and a belief that the work which they do is of great public value. The leaders of prison systems have to be men and women who have a determination to maintain the highest standards in the difficult work of prison management. In order to ensure that the appropriate values are properly understood and implemented by staff it is important that a prison administration should set out its statement of purpose clearly. Such a statement needs to be based on international instruments and standards and to be clearly communicated to all who are involved in the work of prisons. However, it is not sufficient merely to produce a statement of purpose. It also has to be communicated to staff in a manner which they can understand and in a way which will ensure that they implement it in their daily work. One way of achieving this is by providing staff with a Code of Ethics which provides a framework for all the work which they do.

The Council of Europe

7. Given its founding principles, it is no surprise that the Council of Europe has always advocated that member states should ensure that all public servants should observe the highest standards in their professional work. In recent years the Committee of Ministers has increasingly converted this general position into specific recommendations. In May 2000 the Committee adopted Recommendation No. R (2000) 10 on *Codes of conduct for public officials*.

8. The Council has been particularly active with regard to public officials who are involved in the criminal justice field, most commonly in encouraging individual member states to develop codes of ethics for specific groups, such as prosecutors. In addition, the Consultative Council of European Judges has given advice on national codes of ethics for judges. In respect of police, the Committee of Ministers has gone further than simply encouraging member states to develop national codes of ethics and in September 2001 the Committee adopted Recommendation Rec(2001)10 on the *European Code of Police Ethics*.

An ethical context for prison work

9. The Council of Europe has long recognised the need for prison staff to carry out all their duties within an ethical context. This has come in the first instance via the European Prison Rules, which were first adopted in 1973, then revised in 1987 and most recently, in January 2006, adopted by the Committee of Ministers as Recommendation Rec (2006)2. These Rules do not have treaty or convention status, but the fact that they have been adopted by the Committee of Ministers means that they have been approved by the governments of all 47 of the member states of the Council of Europe, who should “be guided in their legislation, policies and practice” by these Rules.

10. Rule 72 states:

1. Prisons shall be managed within an ethical context which recognises the obligation to treat all prisoners with humanity and with respect for the inherent dignity of the human person.
2. Staff shall manifest a clear sense of purpose of the prison system. Management shall provide leadership on how the purpose shall best be achieved.
3. The duties of staff go beyond those required of mere guards and shall take account of the need to facilitate the reintegration of prisoners into society after their sentence has been completed through a programme of positive care and assistance.
4. Staff shall operate to high professional and personal standards.

11. The Commentary which accompanies the European Prison Rules has the following explanation for Rule 72:

This Rule underlines the ethical context of prison management. Without a strong ethical context the situation where one group of people is given considerable power over another can easily become an abuse of power. This ethical context is not just a matter of the behaviour of individual members of staff towards prisoners.

Those with responsibility for prisons and prison systems need to be persons who have a clear vision and a determination to maintain the highest standards in prison management.

Working in prison therefore requires a unique combination of personal qualities and technical skills. Prison staff need personal qualities which enable them to deal with all prisoners in an even-handed, humane and just manner.

12. EPR 72 follows on from an earlier Recommendation of the Committee of Ministers, Recommendation No. R (97)12 on *Staff concerned with the implementation of sanctions and measures*. This Recommendation confirms the key role played by prison staff at all levels. It contains a specific affirmation about “the importance of making explicit the ethical basis of the work carried out by staff concerned with the implementation of community and custodial sanctions and measures”. It also recommends that governments of member states should “take appropriate action to

provide national ethical guidelines for staff concerned with the implementation of sanctions and measures”.

13. The Explanatory Memorandum which accompanies the Recommendation lays out a general principle:

An explicit policy concerning the staff responsible for the implementation of sanctions and measures should be laid down in a formal document or documents covering all aspects of recruitment and selection, training, status, management responsibilities, conditions of work and mobility.

This policy should emphasise the ethical nature of corporate and individual responsibilities and particular reference should be made to national adherence to human rights instruments. It should be formulated in consultation with the staff and/or its professional representatives. Adequate financial resources should be reserved in the budget of the service for the carrying out of this policy.

14. Appendix II to Recommendation (97) 12 provides a set of guidelines to assist member states in drawing up their own national ethical guidelines for prison staff. The guidelines include general ethical requirements, which indicate:

- That staff must carry out their duties loyally and conscientiously.
- That prison administrations have an obligation to make clear to staff that all their work must have an ethical foundation.
- That staff must always act, both on and off duty, in a manner which is in keeping with these ethical values.
- That staff must never use financial or other resources improperly.
- That staff should work together in a spirit of co-operation and mutual support, so as to promote a working environment that is healthy and safe for both staff and prisoners.
- That staff must respect the rights of their colleagues, whatever their race, ethnic or national origin, colour, language, religion, age, gender, sexual inclination or physical or mental condition. They must not under any circumstances take part in any form of harassment or discrimination, or even attempt to excuse such behaviour.
- That staff must show due regard for opinions which are different from their own.
- That staff must fulfil their duties in an honest manner, with openness towards people working in other services and with the public as a whole.

15. The general guidelines are followed by a set referring specifically to the treatment of prisoners:

- That staff should respect prisoners as individual human beings and that this respect should extend to the family and relatives of prisoners.
- That staff must not inflict violence or any other form of physical or mental ill-treatment on prisoners.
- That staff must not be involved in any form of discrimination in the way they treat prisoners.
- That staff must seek to encourage positive behaviour in prisoners by providing a constructive example in their attitudes, words and actions.
- That staff must be respectful in the way they handle information about prisoners and their families.
- That staff must not under any circumstances accept bribes or engage in corrupt activities with prisoners or their families.

16. Since the publication of these ethical guidelines and more especially since the publication of the European Prison Rules 2006 a limited number of European prison administrations have begun the process of developing ethical guidelines, as recommended by the Committee of Ministers. For example, the prison administration of Catalunya has drafted a comprehensive paper entitled *Ground rules for an ethical code for prison staff*.

A Code of Ethics for Prison Staff

17. Recent developments in both the use and the nature of imprisonment in member states of the Council of Europe have confirmed the need for staff working in prisons to have a code of professional ethics to which they can refer as they carry out their duties. The guidelines published in Appendix II of Recommendation No. R (97) 12 provided a useful starting point in this respect. However, the time is now opportune to convert them into a formal Code of Ethics for Prison Staff which, to paraphrase the words of the Committee of Ministers in the preamble to the Code of Police Ethics, will constitute a set of common European principles and guidelines for the overall objectives, performance and accountability of prison staff.

18. The last meeting of the CDAP, held in Edinburgh in 2009, recommended that the Council of Europe should develop a Code of Ethics for Prison Staff. This recommendation was taken up by the Committee on Crime Problems (CDPC), which instructed the Penological Committee (PC-CP) to undertake this work. Drafting has one on over the last two years and there has been wide consultation with member states and other interested parties. The final draft will be presented to the plenary meeting of the PC-CP in November and, if approved, will go to the CDPC meeting in December 2012.

19. The latest draft of the Code is available on the Council of Europe website. Drafters have taken care not merely to replicate the European Prison Rules or Recommendation (97) 12. Instead, they have produced a very concise statement of ethical principles which are easily understood and which provide a solid foundation for the work of everyone who works in a prison. If it is in due course approved by the Committee of Ministers, it will go a long way to re-affirming the professional standing of prison staff and to obtaining recognition for the important public role which they undertake.

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