

**35th SESSION**

Report  
CG35(2018)12final  
7 November 2018

**European Code of Conduct for all Persons Involved in Local and Regional Governance**

Governance Committee

Rapporteur:<sup>1</sup> Manuela BORA, Italy (R, SOC)

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*Summary*

Convinced that corruption, in all its forms, is a threat to democracy, economic development and social cohesion, the Congress is committed to promoting common European principles and standards of ethical behaviour expected of all persons involved in local and regional governance.

The European Code of Conduct for all Persons Involved in Local and Regional Governance updates and extends the Code of Conduct for the Political Integrity of Local and Regional Elected Representatives, adopted by the Congress in 1999. It takes into account the most important developments in local and regional governance over the past two decades, such as the increased outsourcing of public services, growing public expectations for high ethical standards and the changes brought about by new forms of communication. It aims to instruct all actors involved in local and regional governance on the conduct to adopt in the day-to-day performance of their tasks, and to inform the public about the conduct they are entitled to expect from these actors.

In its resolution, the Congress invites local and regional authorities to adopt this Code themselves or to draw up and promote similar codes of conduct. It also encourages them to design appropriate educational programs, to help their staff to identify and deal with potential ethical risk areas and conflicts of interest situations.

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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

**RESOLUTION 433 (2018)<sup>2</sup>**

1. As corruption and other forms of unethical behaviour continue to threaten democracy, new forms of governance, citizen expectations of ethical behaviour, and rapid advancements in communication technologies are creating new ethical challenges for local and regional governance.

2. Recognising the importance of common principles of ethical behaviour, the Congress, as part of its Roadmap of activities for preventing corruption and promoting public ethics, adopted in October 2016 at its 31st session, agreed to revise the “European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives”, which it adopted at its 6<sup>th</sup> session, on 17 June 1999.

3. The revision process had two aims: to extend the code to apply to and serve all persons involved in local and regional governance, and to take into account the most important developments in local and regional governance over the past two decades, notably the growing fragmentation of local and regional governance, with increasing outsourcing of public services, the increased public expectations and demands for high ethical standards in local and regional governance and the changes brought about by developments in digitalisation and new forms of communication.

4. A model code of conduct for local and regional elected representatives serves several functions. It serves in particular to instruct all actors in the ethical standard of conduct expected on them in the day-to-day performance of their tasks, and at the same time to inform the public of the conduct they are entitled to expect from them. It would serve to develop an atmosphere of trust in all actors involved in local and regional governance and to consolidate the relationship between the public and local and regional policy-makers.

5. The Congress therefore,

a. bearing in mind:

i. the Criminal Law Convention on Corruption (ETS No. 173);

ii. the Civil Law Convention on Corruption (ETS No. 174);

iii. Resolution 79 (1999) of the Congress on the political integrity of local and regional elected representatives;

iv. Resolution 316 (2010) of the Congress on the rights and duties of local and regional elected representatives: the risks of corruption”;

v. Resolution 401 (2016) of the Congress on Preventing corruption and promoting public ethics at local and regional levels;

vi. Resolution (97) 24 of the Committee of Ministers on the “Twenty guiding principles for combating corruption”;

vii. Recommendation R(2000)10 of the Committee of Ministers on codes of conduct for public officials;

viii. the Congress priorities for 2013–2016 and 2017–2020;

b. reaffirming that all persons involved in local and regional governance should assume their public duties with integrity, act in accordance with the law and serve the public interest;

c. underlining that they should uphold the principles of transparency, non-discrimination, probity, merit, and respect for diversity;

d. emphasising that they are accountable at all times for their decisions and actions;

e. adopts the European Code of Conduct for all Persons Involved in Local and Regional Governance, as appended to this resolution;

f. encourages local and regional authorities:

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<sup>2</sup> Debated and adopted by the Congress on 7 November 2018, 2nd sitting (see Document [CG35\(2018\)12](#), explanatory memorandum), rapporteur: Manuela BORA, Italy (R, SOC).

- i. to adopt this Code themselves or to draw up and promote similar codes of conduct, in consultation with their national governments, using this code as a model;
  - ii. to design a comprehensive and appropriate educational program of integrity management and implement advisory services, to help their staff to identify potential ethical risk areas and conflicts of interest situations and to tailor specific strategies to cope with those risks;
- g.* encourages national associations of local and regional authorities:
- i. to translate and disseminate the European Code of Conduct for all Persons Involved in Local and Regional Governance to the public, in order to raise awareness of the standards of behaviour that citizens are entitled to expect from them;
  - ii. to assist local and regional authorities in designing appropriate educational programmes and training courses;
- h.* resolves to continue to strengthen its co-operation with the Group of States against Corruption (GRECO) to improve the integrity of local and regional governance in Council of Europe member States.

## **APPENDIX**

### **EUROPEAN CODE OF CONDUCT FOR ALL PERSONS INVOLVED IN LOCAL AND REGIONAL GOVERNANCE**

#### **PREAMBLE**

The Congress of Local and Regional Authorities of the Council of Europe,

1. Recognising that achieving a high level of local and regional democracy requires all persons involved in local and regional governance to adhere to high ethical standards.
2. Aware that corruption and other forms of unethical behaviour continue to threaten democracy, economic development and social cohesion, while new forms of governance, citizen expectations of ethical behaviour, globalisation and rapid advancements in communication technologies are creating new ethical challenges for local and regional governance.
3. Convinced that these developments make it all the more necessary to underline the importance of common principles of ethical behaviour.
4. Reaffirming that all persons involved in local and regional governance should assume their public duties with integrity, act in accordance with the law and serve the public interest.
5. Underlining that they should uphold the principles of transparency, non-discrimination, probity, merit, and respect for diversity.
6. Emphasising that these persons are accountable at all times for their decisions and actions.
7. Stressing that developments in control and supervisory technology need to be balanced against the legitimate right to privacy.
8. Convinced that this Code will provide all persons involved in local and regional governance with valuable guidance for carrying out their daily activities and help develop trust with the people they serve.

Adopts the following Code:

#### **I – AIM AND SCOPE**

##### **Article 1 – Purpose of the Code**

The purpose of this Code is to promote integrity of public governance, by specifying the principles and standards of conduct expected of all actors.

##### **Article 2 – Scope of the Code**

This Code applies to all actors involved in local and regional public governance.

#### **II – GENERAL PRINCIPLES**

##### **Article 3 – Primacy of law**

All actors must at all times act in accordance with the law and serve the public interest.

##### **Article 4 – Accountability**

All actors are accountable for their decisions and actions, and should be willing to give detailed grounds for these.

##### **Article 5 – Transparency**

All actors shall foster the transparency, openness, and visibility of their activities, including policy and decision making, communication, and participation.

All actors shall respond diligently, honestly, and fully to any request for information from the public. They shall defend the right of everyone to hold, receive and impart such information without interference.

The exercise of these freedoms may be subject to conditions, restrictions or penalties. Wherever this is the case, the reasons for such shall be explained and backed by law.

#### **Article 6 – Respect and Non-Discrimination**

All actors shall respect each other. They shall actively work towards a non-discriminatory culture of fairness and tolerance that appreciates diversity.

#### **Article 7 – Merit**

Human resource management should be guided by the principles of merit and professionalism.

#### **Article 8 – Impartiality**

All actors shall show impartiality when taking decisions and actions, and avoid any form of prejudice and favouritism, including nepotism.

#### **Article 9 – Conflicts of interest**

All actors shall avoid any conflict or appearance of conflict between their private affairs and public duties.

Conflicts of interest policies should be guided by the principles of transparency and accountability.

All actors shall comply with any measure under the regulations in force requiring their direct or indirect personal interests, their other mandates, functions or occupations, or changes in their assets and liabilities to be made public and monitored.

### **III – SPECIFIC OBLIGATIONS**

#### **Article 10 – Corruption and fraud**

All actors shall refrain from misusing public function for private gain, and from misappropriating public funds.

#### **Article 11 – Public procurement and contracting**

In all stages of the procurement cycle, decisions and actions shall be guided by fair, clear, and open procedures as well as the right to review any decision by the procurement commission. Bidders shall behave responsibly and fairly and refrain from inappropriately influencing the bidding process.

#### **Article 12 – Revolving door policy**

In performing their functions, actors shall not take any measure to grant themselves a personal and/or professional advantage once they have relinquished their functions.

### **IV – INSTITUTIONS AND PROCEDURES**

#### **Article 13 – Mechanisms for effective implementation**

All organisations involved in local and regional governance should have an explicit integrity policy, consisting of procedures and institutions for supporting and safeguarding public integrity.

This policy should include appropriate educational programmes and training courses.

It should also foresee the provision of appropriate counselling and advice for everyone in order to deal with ethical dilemmas and integrity risks.

#### **Art 14 – Reporting**

Every organisation involved in local and regional governance should have a procedure on how suspicions of wrongdoing can be reported.

This procedure should at least cover the following:

- a. a description of a suspicion of wrongdoing;
- b. the way the report is handled and recorded;
- c. an established possibility for employees to consult a confidential advisor on the suspicions of wrongdoing;

- d.* the designation of official(s) or institution(s) to whom the suspicion of wrongdoing can be reported;
- e.* the obligation to treat the report confidentially, if so requested by the reporter;
- f.* the requirement to handle the report in a timely manner and provide feedback to the reporter.

Every organisation involved in local and regional governance is obliged to provide its employees with a written document on the procedure as mentioned above. The organisation also provides information on:

- a.* the circumstances under which a suspicion of wrongdoing can be reported outside the organisation;
- b.* the legal protection of employees when reporting suspicions of wrongdoing.

## **V – PRIVACY AND USE OF DATA**

### **Article 15 – Principles of data processing and privacy**

The processing of data should be based on the principles of legality, proportionality, efficiency and respect for privacy.

The organisation shall therefore:

- a.* only process relevant and necessary data for a specific, clear, time limited, and legally defined purpose;
- b.* only process data that is proportional– in terms of quantity and quality– to the original purpose of its collection;
- c.* only process data in a way that third parties are restricted from unethical and improper use;
- d.* only store data as long as it is necessary in terms of fulfilling the specific and original purpose of its collection;
- e.* guarantee an individual’s right to review and contest the collected data concerning him or her.

## **VI – DISSEMINATION**

### **Article 16 – Dissemination of the Code**

The Code should be disseminated to the public in order to raise awareness of the standards of behaviour they are entitled to expect from all actors involved in local and regional governance.

The provisions of the Code should be actively integrated in the daily activities of the organisation and discussed on a regular basis.

## EXPLANATORY MEMORANDUM<sup>3</sup>

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### 1 Introductory remarks

1. Corruption in all its forms that can have a significant effect on public trust and on the quality and efficiency of government. Trust in politicians and civil servants remains dangerously low in Europe, undermining the democratic process. Citizens now expect higher standards of probity from public officials.

2. The Congress of Local and Regional Authorities took up the issue of ethical governance almost 20 years ago by adopting, in 1999, the European Code of Conduct for the political integrity of local and regional elected representatives.<sup>4</sup>

3. In its Resolution 316 (2010) on “Rights and duties of local and regional elected representatives: the risks of corruption”,<sup>5</sup> the Congress highlighted the existence of “instruments and [...] compendia of good practices for counteracting corruption”, while acknowledging the need for these instruments to be updated in order to “establish a new culture of transparency and to promote the respect of ethical values and legality”.

4. Public ethics and the prevention of corruption have been among the Congress top priorities since then. In its 2013 – 2016 priorities, the Congress affirmed its willingness to “Strengthen elected representatives’ commitment to ethical conduct and to combating corruption at the local and regional level”,<sup>6</sup> in particular through the conduct of studies and the implementation of measures at grassroots levels. It reiterated this objective in the Priorities for the Congress 2017 – 2020, by “Promoting ethics and transparency at local and regional levels”.<sup>7</sup> According to the Priorities, the Congress “will work to identify ways to prevent corruption, notably through the strengthening of values based on ethics and transparency, including transparency in declarations of interest and public procurement.”

<sup>3</sup> Report prepared with the help of Patrick VON MARAVIĆ, Chair of the Advisory group on revising Congress Code of Conduct and Independent Consultant and former DAAD Associate Professor University of Alberta, Germany; Patrizio MONFARDINI Associate Professor, University of Cagliari, Italy; Gjalte DE GRAAF, Full Professor, Vrije Universiteit Amsterdam; Department of Political Science and Public Administration, The Netherlands; Christoph DEMMKE, Visiting Professor, University of Potsdam, Germany

<sup>4</sup> Congress [Resolution 79\(1999\) on political integrity of local and regional elected representatives](#)

<sup>5</sup> Congress [Resolution 316\(2010\), “Rights and duties of local and regional elected representatives: the risks of corruption”](#)

<sup>6</sup> [Priorities of the Congress 2013 -2016](#)

<sup>7</sup> [Priorities of the Congress 2017-2020](#), pp11-12: “The Congress will work to identify ways to prevent corruption, notably through the strengthening of values based on ethics and transparency, including transparency in declarations of interest and public procurement. Reports will be drawn up and the 1999 European Code of conduct for the political integrity of local and regional elected representatives will be revised and extended to cover executive staff and officials in local and regional government.”

5. This was the background for the adoption of the Resolution 401 (2016) “Preventing corruption and promoting public ethics at local and regional levels” and the related “Roadmap of activities for preventing corruption and promoting public ethics at local and regional levels”.<sup>8</sup> The roadmap includes the preparation of six thematic reports (Misuse of administrative resources during electoral processes, Making public procurement transparent at local and regional levels, Protecting whistleblowers, Nepotism (recruitment of staff), Transparency and open governments, and Conflicts of interests at local and regional levels) with a view to improve the awareness and understanding of corruption, as well as the organisation of thematic events and conferences.

6. It also aimed to lay down principles and standards of conduct for all actors involved in local and regional governance. In this respect, the Bureau of the Congress approved terms of reference to revise and update the “European Code of Conduct for the political integrity of local and regional elected representatives”<sup>9</sup> and an advisory group was set up for this purpose.<sup>10</sup>

## 2 Codes of conduct and codes of ethics at local level

7. Codes of conduct and codes of ethics are often mistakenly used interchangeably. Both codes are designed in an attempt to encourage specific forms of behaviour by elected representatives or employees. While ethical standards aim to provide guidance about values and choices to influence decision making, standards of conduct indicate which specific action is appropriate and which is not. However, codes of ethics and codes of conduct regulate behaviour in very different ways. Ethical guidelines are generally wide-ranging and non-specific. They outline a set of values and principles that should help elected representatives or employees to make independent judgments in the course of their activity. On the contrary, codes of conduct outline specific behaviour and require little judgment: your conduct is either correct or it is not.

8. There is currently a profusion of codes of ethics and codes of conduct covering the political, administrative and business sphere. Global companies such as Total or Coca-Cola have developed comprehensive codes of business conduct for their employees, combining business principles, rules of individual behaviour and ethics compliance committees.

9. There are also several examples of codes of ethics or code of conduct for members of the government or members of Parliament. The revised code of ethics enacted by the French National Assembly, though it applies to members of Parliament, i.e. national elected representatives, is worth mentioning. In order to re-establish trust between the citizens and their elected representatives, the National Assembly set up in April 2011<sup>11</sup> a comprehensive system to prevent conflicts of interest, by enacting the code of ethics<sup>12</sup> that sets the principles and by establishing an Ethics Officer. The Code was revised on 13 July 2017, in the context of several conflicts of interest affecting members of government and of the drafting of the organic law on “confidence in political life”.<sup>13</sup> Members of Parliament pledge to respect six principles and (public interest, independence, objectivity, accountability, integrity, exemplariness) as well as a declaratory obligation. In the words of the former Ethics officer, despite the recent political scandals, there has been a significant improvement of the “ethical climate” in the Assembly.<sup>14</sup>

10. In contrast, codes of ethics or codes of conduct at local/regional level, i.e. for local/regional civil servants or local/regional elected representatives, are the exception. A few examples nevertheless deserve to be mentioned. The “Seven principles of public life”<sup>15</sup> (or Nolan Principles) laid down in the Nolan report and published on 31 May 1995, namely selflessness, integrity, objectivity, accountability, openness, honesty and leadership, are somewhat similar to the principles set forth in the French National Assembly code of ethics. The report itself suggests that town councils should be obliged to adopt a local code of conduct. The

8 Congress [Resolution 401 \(2016\) on Preventing corruption and promoting public ethics at local and regional levels](#)

9 Terms of reference “Revision of Code of conduct for political integrity of local and regional local elected representatives”, [13/2016/GOV], adopted by the Congress Bureau at its meeting on 21 October 2016.

10 The advisory group, comprising four experts (Patrick VON MARAVIC, Chair of the advisory group; Patrizio MONFARDINI; Gjalt DE GRAAF and Christoph DEMMKE) and two members of the Congress Secretariat, met on 1 March 2017 (Brussels), 7 September 2017 (Paris) and 5 March 2018 (Paris). (Skype conferences: 4 April 2017, 23 May 2017, 30 May 2017, 10 October 2017, 24 October 2017, 21 November 2017, 13 February 2018)

11 Decision of the Bureau of the National Assembly of 6 April 2011

12 [http://www2.assemblee-nationale.fr/qui/deontologie-a-l-assemblee-nationale/node\\_28545](http://www2.assemblee-nationale.fr/qui/deontologie-a-l-assemblee-nationale/node_28545)

13 [Loi organique n° 2017-1338 pour la confiance dans la vie politique](#), published on 15 September 2017

14 Interview of Ferdinand Melin-Soucramanien, French National Assembly Ethics Officer from April 2014 to June 2017, available online at : [http://www.huffingtonpost.fr/ferdinand-melin-soucramanien/moralisation-vie-publique-temoignage-progres-ethiques-assemblee-nationale\\_a\\_22578221/](http://www.huffingtonpost.fr/ferdinand-melin-soucramanien/moralisation-vie-publique-temoignage-progres-ethiques-assemblee-nationale_a_22578221/)

15 Available online at: <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>

Department for Communities and Local Government of the United Kingdom then enacted a model code of conduct for local authorities.<sup>16</sup>

11. In England, the Localism Act (2011)<sup>17</sup> specifies that “relevant authorities” “must adopt a code dealing with the conduct that is expected of members and co-opted members of the authority when they are acting in that capacity”. This applies in particular to county councils in England, district councils, parish councils, the Greater London Authority and the Metropolitan Police Authority. The Localism Act specifies that the code should be consistent with the Nolan Principles, and should contain a number of detailed provisions on register of interests, disclosure of pecuniary interests, sensitive interests, and offences.

12. In Scotland, a Code of Conduct for the Councillors of all 32 local authorities in Scotland has been in force since May 2003. Its third edition<sup>18</sup> was published in December 2010 and a supplementary Guidance Note to Local Authorities and their Councillors has been published by the Standards Commission and is available to provide help in interpreting the Code. In 2003 the Scottish Parliament also approved a Model Code of Conduct for Members of Devolved Public Bodies and following a public consultation in 2013 a Model Code<sup>19</sup> was renewed and approved by the Scottish Parliament and published in February 2014.

13. Several other countries have adopted codes of conduct at local level (sometimes erroneously entitled “codes of ethics”). In Montenegro<sup>20</sup> and in Republika Srpska,<sup>21</sup> codes lay down standards of conduct for local civil servants. However, when such codes are in place, they often lack an effective monitoring mechanism or clear sanctioning regulations.

### 3 Relevant work done by international organisations

14. Almost all international organisations working on issues related to public sector management and public administration have attempted to draft legal instruments providing guidance on the creation of public officials’ codes of conduct. At the European level, the Council of Europe, the European Union and the OECD are engaged in the fight against corruption and multiple political and legal instruments have been adopted.

#### 3.1 The Council of Europe

15. Since the adoption of its Programme of Action against Corruption in November 1996,<sup>22</sup> the Council of Europe has been pursuing a comprehensive approach against corruption by setting standards in the form of conventions and other instruments (recommendations and resolutions), and by monitoring their compliance with Council of Europe and global standards through its monitoring mechanisms: the Group of States against Corruption (GRECO).<sup>23</sup>

16. In November 1999, the Committee of Ministers adopted Resolution (97) 24<sup>24</sup> laying down twenty guiding principles for combating corruption. It asked in particular that national authorities of member States apply those principles in their domestic law and practice, including the promotion of ethical behaviour, the need to ensure transparency in the organisation, functioning and decision-making processes of public administration and the adoption of appropriate transparent procedures for public procurement. Moreover, the Resolution calls on government to “ensure that the rules relating to the rights and duties of public officials take into account the requirements of the fight against corruption and [...] promote further specification of the behaviour expected from public officials by appropriate means, such as codes of conduct”. It also recommends “to encourage the adoption, by elected representatives, of codes of conduct and to promote rules for the financing of political parties and election campaigns which deter corruption”.

17. In the framework of the Action plan, the Council of Europe devised the Criminal Law Convention on Corruption (ETS No. 173).<sup>25</sup> The main aim of the treaty is to harmonise national law on certain corruption offences and to improve international co-operation in this field. The Convention criminalises active and passive bribery of public officials, including that of mayors. Article 4 of the Convention extends the scope of this offense to members of “domestic public assemblies which exercise legislative or administrative powers”,

16 [The Local Authorities \(Model Code of Conduct\) Order 2007](#), 2007 No. 1159,

17 [http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga\\_20110020\\_en.pdf](http://www.legislation.gov.uk/ukpga/2011/20/pdfs/ukpga_20110020_en.pdf)

17 [The Councillors’ Code of Conduct](#), Scotland

19 <http://www.gov.scot/Resource/0044/00442087.pdf>

20 [Code of ethics of Local Civil Servant and Employees](#) of Montenegro

21 [Code of Amendment to the Code of Conduct of Civil Servants of Republika Srpska](#), adopted on its 139<sup>th</sup> session held on September 3<sup>rd</sup> 2009

22 Programme of Action against Corruption, adopted by the Committee of Ministers at its 578<sup>th</sup> meeting (18-21 November 1996)

23 <https://www.coe.int/en/web/programmes/fight-against-corruption-and-money-laundering>

24 [Resolution \(97\) 24](#), adopted by the Committee of Ministers on 6 November 1997 at the 101<sup>st</sup> session of the Committee of Ministers

25 [Criminal Law Convention on Corruption](#), ETS No. 173, opened for signatures on 27/01/1999 and entered into force on 01/07/2002

at local, regional and national level, whether elected or appointed. This broad notion could cover, in some countries, members of regional or provincial assemblies or local councils.

18. The following Civil Law Convention on Corruption (ETS No. 174)<sup>26</sup> was the first attempt to define common international rules in the field of civil law and corruption, requesting Contracting Parties to provide “for effective remedies for persons who have suffered damage as a result of acts of corruption, to enable them to defend their rights and interests” (article 1). For instance, Article 9 enshrines the principle of protection of employees who report corruption, and requires the signatories to “provide in [their] internal law for appropriate protection against any unjustified sanction for employees who have reasonable grounds to suspect corruption and who report in good faith their suspicion to responsible persons or authorities”.<sup>27</sup>

19. The Council of Europe rapidly established the Group of States against Corruption (GRECO),<sup>28</sup> to monitor compliance with its anti-corruption standards. GRECO monitors all its members on an equal basis, through a dynamic process of mutual evaluation and peer pressure. It works in cycles, each evaluation rounds covering specific themes.<sup>29</sup> Its 5th Evaluation round was launched on March 2017 and addresses the prevention of corruption and the promotion of integrity in central governments (top executive functions) and law enforcement agencies. So far no evaluation round has been dedicated exclusively to local or regional authorities. It should be noted nonetheless that monitoring reports for some countries include references to the local dimension.

20. Finally, in 2000 the Committee of Ministers adopted Recommendation No. R(2000)10 on “Codes of Conduct for Public Officials”, calling on national government to promote the adoption of national codes of conduct for public officials based on a model code annexed to the recommendation.<sup>30</sup> The model code, which does not apply to elected representatives, contains most of the major elements that have made their way into legislative instruments in the various member States.

### 3.2 The European Union

21. The European Commission adopted the Communication on Fighting Corruption in the EU in June 2011, establishing the EU Anti-corruption Report to monitor and assess Member States’ efforts in this area. Published in February 2014, the first report<sup>31</sup> underlined that integrity in politics is a serious issue for many EU member States and noted the lack of harmonised definition of “public official” at EU level, which would include both civil servants and elected officials.

22. A specific section of the report was dedicated to asset disclosure for officials in sensitive posts. The European Union considered that this practice “contributes to consolidating the accountability of public officials, ensures enhanced transparency and facilitates detection of potential cases of illicit enrichment, conflicts of interest, incompatibilities, as well as the detection and investigation of potential corrupt practices”. An important aspect of these declarations is their verification, and the report noted that there were few examples of thorough verification among EU Member States.

23. The report also addressed the issue of conflict of interest. Regulations and sanctions applicable to conflict of interest vary across the European Union, in particular as regards to the authority responsible for compliance (independent agencies, ethics commission reporting to Parliaments, etc.). Moreover, the sanctions applicable, if any, are usually scarce and weak. The European Commission maintains that conflicts of interest raise particular problems at local level and that “more efforts are needed to disseminate good practices applied by some regions or local administrations and create a level playing field, for both elected and appointed officials at local level”.

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26 [Civil Law Convention on Corruption](#), ETS No.174, opened for signatures on 04/11/1999, entered into force on 01/11/2003

27 Article 9 – Protection of employees” of the Civil Law Convention on Corruption (ETS No. 174)

28 Art 24, Criminal Law Convention on Corruption

29 The 1st Evaluation Round (2000–2002) dealt with the independence, specialisation and means of national bodies engaged in the prevention and fight against corruption; and the extent and scope of immunities. The 2nd Evaluation Round (2003–2006) focused, among other themes, on public administration and corruption (auditing systems and conflict of interest). The 3rd Evaluation Round (launched in January 2007) addressed the incriminations provided for in the Criminal Law Convention on Corruption and the transparency of party funding. The 4th Evaluation Round (2012) focused on corruption prevention in respect of Members of Parliament, Judges and Prosecutors.

30 [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 106<sup>th</sup> Session on 11 May 2000)

31 [EU Anti-corruption Report](#), Report from the Commission to the Council and the European Parliament, COM(2014) 38 final, 03/02/2014

24. Finally, the European Commission called for adequate whistleblowing mechanisms that codify processes within public administrations to allow official channels for reporting. It affirmed that “creating effective protection mechanisms that would give confidence to potential whistleblowers are key”.

25. To take stock of the findings of this first report, the European Commission launched in 2015 the “Experience Sharing Programme”<sup>32</sup> to support Member States, local NGOs and other stakeholders in addressing specific challenges identified in the EU Anti-Corruption Report. This programme aims to identify best practices and overcome shortcomings in anti-corruption policies, raise awareness and provide training. Several workshop, gathering participants from 17 to 20 member States have been organised, on topics ranging from “Effective asset declaration systems” (Budapest, 29 April 2015) to “Preventing corruption in public procurement at the local and regional levels” (Athens, 25 February 2016), and “Conflicts of interests and revolving doors” (Barcelona, 15 June 2017).

### 3.3 OECD

26. The OECD takes a soft-law approach toward regulating public officials’ behaviour. Such an approach recognises that little agreement on ethical issues exists between countries (and thus their public administrations). The soft law approach accepts that civil servants (and public officials more generally) require large amounts of discretion in order to work – involving the frequent taking of ethical decisions. Thus, these soft law instruments focus more on providing general principles by which public officials can resolve.

27. In 1998, the OECD Council adopted a recommendation on “Improving Ethical Conduct in the Public Service”, maintaining in the Preamble, that “ethical conduct in the public service contributes to the quality of democratic governance and economic and social progress by enhancing transparency and the performance of public institutions”. Among the broad and general recommendations are the promotion of government action to maintain high standards of conduct and counter corruption in the public sector, and the incorporation of the ethical dimension in the management framework.

28. The OECD also recommends that the member countries use, as a reference, the 12 “Principles for Managing Ethics in the Public Service”<sup>33</sup> annexed to the recommendation. The principles refer to the clarity and the legality of ethical standards that could be disseminated concisely in the form of codes of conduct designed to promote a shared understanding of common ethical values. They also promote a sense of leadership when it makes it clear that “managers should demonstrate and promote ethical conduct” and that “management policies [...] should promote integrity”. Finally, they state that adequate accountability mechanism, procedures and sanctions should be in place within the public service, to deal with misconduct. It is important to note that the OECD recommends that the principles be used at subnational level (i.e. local or regional).

29. Besides, in 1998 the OECD Working Group on Bribery established the Anti-Corruption Network.<sup>34</sup> This regional outreach programme is open to countries in Eastern Europe and Central Asia, and supports its members in their efforts to prevent and fight corruption, in particular the practical implementation of anti-corruption measures and effective enforcement of anti-corruption laws. It also provides references or recommendations regarding various methodological documents that were developed in one country and can be promoted in the region, such as training curricula and training materials, samples of codes of conduct for public officials and conflict of interest regulations.<sup>35</sup>

30. OECD Recommendation of the Council on Public Integrity (C(2017)5) clarifies the definition of public ethics<sup>36</sup> and public sector. Taking into account the fact that private and non-profit actors are playing today an essential role in defining, producing, delivering public goods and services in different fields, the OCDE recommendation provides that public sector includes “public corporations, state-owned enterprises and public-private partnerships and their officials, as well as officials and entities that deliver public services, which can be contracted out or privately funded”.

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32 [https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/experience-sharing-programme\\_en](https://ec.europa.eu/home-affairs/what-we-do/policies/organized-crime-and-human-trafficking/corruption/experience-sharing-programme_en)

33 [1998 Recommendation of the OECD Council on Improving Ethical Conduct in the Public Service](#), Including Principles for Managing Ethics in the Public Service

34 <https://www.oecd.org/corruption/acn/>

35 [Work Programme for 2016-2019](#), Anti-Corruption Network for Eastern Europe and Central Asia, OECD

36 “Public integrity refers to the consistent alignment of, and adherence to, shared ethical values, principles and norms for upholding and prioritising the public interest over private interests in the public sector.”, OECD Recommendation of the Council on Public Integrity (C(2017)5)

## 4 The 1999 European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives

31. In 1999, with the determination to relay the message and to promote standards of conduct for politicians, the Congress adopted a “European code of conduct for the political integrity of local and regional elected representatives” (the 1999 Code).<sup>37</sup> As stated by the rapporteur at the time, “political integrity generally refers to standards of conduct in office that uphold a number of ethical values such as honesty, probity and objectivity”.

32. The Congress being a political assembly of local and regional elected representatives, the scope of the 1999 Code is limited to that very category of citizens: “for the purposes of this Code the term “elected representatives” means any politician holding a local or regional authority mandate conferred through a principal election (election by direct suffrage) or secondary election “election to executive office by the local or regional council)” (Art 1).

33. The Code sets out as a general principle the primacy of law and of the public interest in the exercise of an electoral mandate, and the acceptance by elected representatives to perform their functions with diligence, openness and a willingness to account for their decisions. It suggests specific obligations that local and regional elected representatives need to comply with in the taking, the holding and the relinquishing of office. In particular, it lays down rules governing election campaigns, introduces a ban on favouritism and on exercising authority to one’s advantage. It also proposes certain means of supervision, including the declaration, on request, of election campaign expenses and of personal interests. Finally, the Code requires transparency in exercising public duties, by making public both decisions and their grounds, and by responding to any request from the public concerning the performance of these duties.

34. Since its adoption in 1999, the Code has been translated into several languages.<sup>38</sup> It has proved its worth as a European standard and has been used as an essential tool for the Congress cooperation activities, in particular its thematic activities and peer-to-peer exchanges on public ethics and transparency. Workshops and seminars have been organised in several countries. This approach has led to positive developments in a number of member States, such as Ukraine, where a number of policies have been introduced by Kyiv City Council to enhance transparency and public ethics, and to further engage with citizens through participatory budgeting.<sup>39</sup> Under the regional programme “Partnership for Good Governance” (2015-2017),<sup>40</sup> over sixty mayors from Armenia, Azerbaijan, Georgia, Moldova and Ukraine took part in thematic activities and peer-to-peer exchanges on public ethics, transparency and citizen participation.

## 5 The European Code of Conduct for all Persons Involved in Local and Regional Governance

### 5.1 Introduction

35. The purpose of the European Code of Conduct for all Persons Involved in Local and Regional Governance is to set out at European level the ethical principles and standards approved by the elected representatives of local and regional authorities of the 47 Council of Europe member States. This code revises and updates the 1999 Code of conduct for political integrity of local and regional elected representatives and shall apply now to all persons involved in local and regional governance.

36. The Code performs multiple functions:

- a. instructing all actors involved in local and regional governance on the conduct to adopt in the day-to-day performance of their tasks;
- b. informing the public about the conduct they are entitled to expect from all actors involved in local and regional governance and the means to achieve them;
- c. helping to establish an atmosphere of trust in all actors involved in local and regional governance and thus consolidating the relationship between the public and local and regional policy-makers;

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<sup>37</sup> [Resolution 79 \(1999\) on political integrity of local and regional elected representatives](#), debated by the Congress and adopted on 17 June 1999

<sup>38</sup> English, French, Italian, Ukrainian, Armenian, Romanian, Georgian, and Arabic

<sup>39</sup> Co-operation activities of the Congress in member States and neighbouring regions [CG/BUR14\(2017\)INF52](#), Situation at 12 October 2017

<sup>40</sup> <https://www.coe.int/en/web/good-governance/eastern-partnership>

- d. advising those who are tasked with ensuring the respect of those principles;
- e. enhancing ethical standards.

37. A model code cannot claim to cover the entire range of widely differing situations of ethical challenges. Generally speaking, a code of conduct institutionalizes expectations about principles of behaviour, measures to safeguard those principles as well as principles of dealing with enforcing those. The focus here is on the relations among different actors, duties and responsibilities, individual and group behaviour, financial interests, and the use of official information. The purpose of drawing up a code of conduct is to enhance the integrity of public governance. The different actors are expected to respect the principles and values of the Code. Codes of conduct are tools. They shall be viewed as one instrument among others, meaning within a wider and comprehensive integrity policy.

38. It will be for the national governments and/or national associations of local and regional authorities of the member States to detail the values and principles established by the code in their national legislation or other relevant prescriptive or ethical texts.

## 5.2 Emerging challenges for public integrity

39. Establishing a coherent, effective, and trusted set of ethical principles and mechanisms across a growingly decentralized and fragmented governance setting, is one of the main challenges that this new code addresses. Over the past two decades, significant changes in the field of organising local and regional authorities, public standards, and digitalisation have created new challenges in the ethics and integrity of governance, as well as new ways of coping with these. The following paragraphs address these three main challenges.

40. In many member States, local and regional governance is becoming increasingly fragmented, providing services to citizens by means of managing and regulating decentralised structures of public, private, and non-profit actors. These new actors have become essential elements in both providing “public” services to the public. They all take an active role in defining, producing, and delivering public goods and services in the field of security, health, infrastructure or education. As a consequence, administrative capacity, financial resources, personnel as well as procurement processes have been migrating from the core administration to public enterprises and private companies. Concomitantly, with the blurring of former boundaries between public and private, as well as the shift in resources and activities, the risks of corruption and unethical behaviour have also spreading out?.

41. Secondly, expectations of citizens about good public behaviour are also changing. Of key concern is the general public mistrust towards public institutions and its representatives, as well as the perception about high levels of corruption in Europe. People are sensitive to the ethical climate in their community. Values lose their guiding capacity when they are ambiguous or considered illegitimate. Trust in legitimate norms and processes is key in advancing integrity in governance. Equally important, people judge the quality of governance also by the seriousness of efforts to fight known problems, by how complaints are handled or how an organisation deals with people reporting irregularities.

42. Thirdly, the rise of digitalization in public affairs and private life, along with new forms of communication, increasingly affect the management, monitoring, and communication of public organisations. By enhancing the capacity to collect, analyse, and share data about employees, citizens, and performance, organisations have the potential to learn about themselves, improve work processes, and reduce risks of corruption and fraudulent behaviour. However, this development has also led to concerns about the necessary standards to protect staff and their private data. Balancing the advantages of digitalisation with concerns about privacy and data protection has become a major concern.

43. In order to address those new ethical challenges, which arise from these substantial changes in the governance of public authorities, and with the aim of preventing corruption and promoting public ethics at local and regional levels, this code widens its scope and shall now provide ethical guidance to all persons and actors involved in regional and local governance. This includes elected, appointed and contracted personnel, and applies irrespective of whether those actors are governed by public or private law, or whether they are involved in defining, delivering or reviewing public goods or services.

44. This code, while stating the ethical principles that should be observed by all persons involved in local and regional governance, leaves local and regional authorities with substantial scope for expanding and applying it. This flexibility should allow for new problems and situations to be dealt with as they arise: it is consequently for local and regional authorities themselves to take the initiative of expanding on and applying the principles laid down by the code.

45. All actors should be able either to adopt this code without amendment or to draw up their own code of conduct on the basis of this code. In other words, the European code sets minimum standards. The provisions of the code do not adversely affect the legal provisions of Council of Europe member States on combating corruption.

### 5.3 Section I on the scope of the Code

46. *Article 1* of this Code emphasises three important aspects of ethical governance. First, the purpose of this Code is to support organisations in achieving a state of good ethical governance. Secondly, this article urges organisations involved in local and regional governance to define the norms that shall guide behaviour and give orientation. Thirdly, Article 1 stipulates that the code addresses “all actors”. The Introduction of this Explanatory Report provides further details.

47. *Article 2* provides that this Code shall apply to all actors involved in local and regional governance. The term “all actors” refers to any person or organisation is involved in defining, purchasing, providing or reviewing public goods and services (see paragraph 6).

48. To make this Code consistent, it is specified that the principles laid down in it apply to elected, appointed, and contracted officials, managers of public enterprises as well as all private parties that are either charged with delivering public goods or involved in the policy-making process.

49. With the same aim in mind, *Article 2* provides that all actors shall respect those principles and standards when fulfilling their specific functions. This includes avoiding any action that could create the appearance of violating the ethical principles set forth in this code.

### 5.4 Section II on general principles

50. **Section II** aims to define the general principles which should govern all actors` conduct. These are couched in general terms and engender a duty to use one`s best endeavours, but not to produce a specific result. They should be read together with the specific obligations set forth in Section III, which constitute a non-restrictive list of measures to be complied with pursuant to these general principles.

51. *Article 3* emphasizes the general principle that all actors involved in local and regional governance are equally subject to the rule of law, which constrains both individual and institutional behaviour. It therefore aims to establish the primacy of the legal framework, in which all actors take office and perform their functions, and to preclude the promotion of personal interests which might override the public interest. Such personal interests may be pecuniary, professional or electoral in nature. They directly or indirectly depend on whether the interest concerns the actor or someone close to him or her (family, friends, political group). Such interests may derive in particular from the fact that actors who are involved in local and regional governance will usually be part of a network of social relationships. These social ties are not necessarily detrimental to ethical behaviour, as they tie public organisations to society and help to hold them accountable. However, these ties can be a source of conflicts of interest.

52. *Article 4* lays down the fundamental idea that those who are entitled to represent others and to hold public office may be called to account for their performance and behaviour. Accountability refers to the institutionalized process that defines who is answerable for what and to whom. Accountability is the normative basis for evaluating individual or institutional behaviour retrospectively.

53. *Article 5* addresses the relation between all actors in local and regional governance and the public. If accountability is the hallmark of democratic governance, then transparency is an important means to achieve it. Transparency in decision making and public supervision of the functioning of public services and departments has been identified as one of the most effective means of preventing and suppressing the abuses of power which mandate-holders may commit in performing their functions. It concerns therefore the access of the public to review policy-making on the basis of documents, records, and other sources.

54. Policies are general statements about actions and decision-making. Public policy making refers to all such actions taken by governments or public authorities. It refers both to the product of public action, e.g. health care, education, public safety, as well as the continuous and often conflictual process of decision making that leads up to public action. Decision-making is about the process of examining a question of controversy, of reaching a final conclusion about alternatives, the making of choices about resources, and the selection of strategies to deal with societal problems. The decision-making processes need to adhere to certain standards of transparency and accessibility. Citizens need to be able access and review the communication, including protocols, written documents or any information that has influenced this process. Any communication with the public must be comprehensive and designed in a manner that persons not

familiar with a specific topic can understand the most relevant aspects of it. Participation refers to the fundamental democratic right of citizens to be involved in decision-making processes and be informed whenever they can be part of a decision-making process. It is therefore not sufficient to set up opportunities to participate, it is also necessary to explain people when and how they can participate.

55. *Article 6* stipulates that all people are to be treated with respect and dignity. Public workforces are increasingly diverse in terms of ethnicity, appearance, belief, sexuality and age. The same holds true for the societies that they serve. With the rapid and widespread growth of geographic mobility in Council of Europe member States, the well-documented changes in terms of social values and lifestyles, and normative considerations, which follow the distinct political discourses of, for example, identity politics or politics of recognition, the pressures to actively work towards inclusion are more present than ever.

56. Diversity refers first and foremost to difference. Recognising both individual and group differences is an important step in viewing diversity as a positive value in the workforce and society. This heterogeneity can create both challenges and opportunities with regard to values, forms of behaviour as well as prejudices. A key element of respectful treatment is the formulation of a policy to protect against discrimination within an organisation, but also with respect to the delivery of public services, such as transport or health care. Organisations do better by responding transparently and flexibly to the specific demands of diversity, for example by addressing the issue of accessibility for disabled persons and elderly staff or flexible working hours for persons taking care of family members at home. Inclusive work concepts demand higher flexibility in organisations, but they also enable them to take advantage of the opportunities that come with differences.

57. *Article 7* underlines expertise and professionalism as the fundamental criteria in hiring and promoting people. The ability to perform a certain function, rather than political connections, kinship or other social obligations, shall guide the management of persons in local and regional governance. This can only be achieved by a clear focus on the educational achievements and performance of candidates.

58. *Article 8* establishes that objective criteria, rather than bias or prejudice, shall guide decisions. In a wider sense of the word, impartiality includes the concepts of independence and neutrality. It furthermore suggests that persons with different ideas and interests shall be subject to fair and equal treatment. Against this background, Article 8 obliges all persons involved in public and regional governance to abstract from their own personal interest by standing above social conflicts. Whenever this is not possible or limited by personal interests, the provisions on Conflict of Interests shall be consulted. In addition, this article needs to be viewed against the provisions of Articles 6 and 7.

59. *Article 9* deals chiefly with resolving conflicts of interest. Resolving conflicts of interest lies at the heart of integrity in public affairs. The basic principle to be observed is clear: public officials should not in any way allow their direct or indirect personal interests to interfere with the public interest, which in this case is that of the municipality or region. No public decision should be taken under pressure from the personal interest of one or more decision-makers.

60. A conflict of interest arises in situations where a person has multiple roles. Wearing “two hats” (in the sense of having conflicting interests) can be the case if a holder of public office or any person involved in regional and local governance, i.e. judge, public manager, administrator, clerk or teacher is also a (honorary) member of the board of an agency, NGO or company. Generally speaking, where individuals have more than one official role, it may be difficult to keep the roles separate.

61. Therefore, a conflict of interest may result in an “abuse of public office for private advantage”, leading to unfair behaviour. Regional and municipal authorities are especially vulnerable to conflicts of interests. Depending on the political system, they are often responsible for implementing public policies and service delivery in spheres known for their vulnerability to corruption (such as urban planning, building and construction, social services or licensing). In addition, their close relationships with citizens may create ethical challenges that test the integrity of all persons involved in local and regional governance.

62. With regard to the application of this article, most countries need to address the following four questions:

a. What needs to be covered? The actual conflict of interest issues covered can be organized in four categories, namely, conflicts related to in-job activity (activities related to the office); conflicts related to political activity (e.g. if the office holder intends to stand for election); other activity (e.g. other public functions, charitable activities etc.); and financial interests.

b. At what point in time is coverage required? This addresses the time before taking up the job (pre-office), during the work (in-office) and after leaving the job (post office).

c. Who needs to be addressed? Ethical rules focus on the person. However, some of the possible conflict of interest situations also involve the office holder's family and other relations (e.g. partners, friends and pre-office professional contacts).

d. How can compliance be enforced? Ethical rules generally include provisions on the prevention of conflicts of interest (e.g. via training), internal enforcement (i.e. within the administration), external enforcement (e.g. reporting to outside bodies) and sanctions (i.e. the consequences of unethical behaviour).

63. Effective conflicts of interest policies usually include the following:

a. measuring and assessing conflicts of interest, in ways that focus on generating information that is useful, e.g. through staff assessments and other indicators;

b. strengthening the focus on transparency, openness and accountability, so that interested stakeholders can have access to the information they need to prevent, detect, investigate and sanction conflict of interest;

c. supporting efforts to tackle conflicts of interest, through cycles of awareness raising and learning about the risks of conflict of interest;

d. focusing on analysing the effectiveness of conflict of interest policies in relation to specific policy sectors, problems, issues or instruments;

e. paying attention to compliance and results and not only the implementation of rules as such.

64. Most countries have moved from a focus on regulating conflict of interest policies to managing conflicts of interests and from top-down approaches (prohibitions, restrictions, criminal and administrative sanctions) to more complex value based approaches including education, training, transparency requirements and better monitoring systems. Consequently, modern conflict of interest systems are no longer based purely on law, compliance and penalizing wrongdoing. In fact, they are oriented towards preventing conflicts of interest from happening and encouraging proper behaviour, through guidance and orientation measures, such as training and the introduction of codes of conduct. Consequently, most countries offer a wide range of instruments in the fight against unethical behaviour and the emergence of conflicts of interest.

65. Nowadays the common standards in the field of conflicts of interests comprise:

a. A body of rules, and principles: mostly these instruments enumerate many prohibitions and restrictions (e.g. not receiving gifts of over 250 euros). Here, important differences exist as to the different actors and sectors and the number of prohibitions, restrictions and obligations.

b. Four ways to mitigate conflicts of interest (especially for office holders and top officials): recusal, divestiture, disclosure and incompatibility. Three of these are preventive measures: recusal means excluding oneself from participating in a decision; divestiture means that the person sells off the conflicting interest; disclosure means different ways of informing the institution, superior and/or the public on own financial, personal and/or professional "interests".

c. Designing codes: here, important differences exist as regards the decision-making of codes and the involvement of staff (representative, the detailing of codes, whether and how violations of codes can be sanctioned, whether codes contain expectations as to concrete workplace behaviour etc.).

d. Disclosure policies: introducing registers of interests that require documenting potential conflicts of interests. Here, differences exist as to transparency requirements, the level of detail of reporting obligations and specific obligations (e.g. whether spouse's activities should be registered or not) etc. Disclosure requirements differ as regards positions and sector (generally, requirements exist for office holders and top-officials, but not for other actors and stakeholders).

e. Monitoring and enforcement mechanisms: depending on the person and sector in question, important differences exist regarding powers and resources of ethics committees and ethics commissions, which have the task to advise on ethical questions and/or to monitor and control the development of conflicts of interests within their organisations. Also, important differences exist as to (criminal and administrative) sanctions in cases of ethical misconduct.

f. Training and awareness raising: local and regional authorities need to consider whether training on conflicts of interest should be obligatory or not, offered to all civil servants, or only for top officials, only once or regularly, whether training should only inform on rules and policies, but also include dilemma training etc.

## 5.5 Section III on specific obligations

66. **Section III** imposes certain specific obligations on all persons involved in local and regional governance. These obligations develop the general objectives described in Section II. Defining both general principles and specific obligations makes it possible to avoid the pitfalls of a wording that is either too general or too specific. All actors should naturally observe the general principles set forth in Section II in all their activities, over and above these obligations.

67. *Article 10* prohibits corrupt and fraudulent behaviour *per se*. Despite varying definitions and concepts, some general agreement can be found. Corruption can be regarded as a hidden transaction with the aim of securing public goods, such as contracts or funding, for private purposes. It often refers to the deliberate action of someone who is charged with public authority, to demand or receive an immediate advantage, or the promise of an advantage, in return for a favour to a third party that violates her or his duties and is not in accord with the ethical principles of these duties. Obviously, the rule of law, the principle of equality, and the probity of decision-making are then being violated. The consequences of corruption are severe and far-reaching. Not only does corruption hinder economic development and social mobility, it undermines trust in democratic and administrative institutions, and is therefore a severe threat to the rule of law and democracy. In increasingly decentralized administrative systems, in which public services are contracted out to semi-public organisations or private enterprises, any such interactions carry the potential for manipulating bidding processes, bribing decision-makers or circumventing rules and procedures. Given the variety of definitions of the offence of corruption, reference is made to the criminal law in force in a member country and to the relevant international legal instruments.

68. *Article 11* seeks to establish a level-playing field for any person interested in participating in a public bidding process. Procuring goods and services is of key relevance for modern public service systems. At the same time, contracting-out creates opportunities of corruption, which can disrupt free competition in a market of goods and services. Corrupt transactions and the manipulation of bidding processes lead to high transaction costs, low services, and higher prices for delivering goods and services to citizens. Eventually, this undermines trust in democratic governance and fosters arbitrary decision-making.<sup>41</sup>

69. *Article 12* regulates the securing of future advantages by any person involved in local and regional governance. This concerns the movement between public and private jobs and vice-versa, especially when future jobs are linked to previous duties and connections. Civil servants sometimes move to jobs in companies involved in local government procurement, where they can take advantage from their insider information, or shape policy contracts while in office, in order to benefit from this later when they are working for a private contractor, or to create other opportunities for themselves or friends and relatives. The revolving-door phenomenon has for some time occupied a central place in the discourse about conflicts of interest, corruption and undue influence.

70. The topic becomes more important as mobility between the public and private sector increases and more politicians and senior public servants or managers switch sides. The challenge arises because no country has an interest to put obstacles to labour market dynamics and the flow of skills and competences. Many governments and policy makers react to this by introducing post-employment rules and principles for managing, implementing and monitoring the revolving door issue. Cooling-off periods are often seen as a means to prevent those conflicts.

## 5.6 Section IV on institutions and procedures

71. **Section IV** deals with the institutions and procedures of the integrity architecture. They shall be designed to support the implementation of the principles and provisions of this code and the compliance of all actors involved in local and regional governance with the general principles.

72. *Article 13* urges organisations to proactively keep up with approved international standards of managing ethical organisations. This includes designing a comprehensive and appropriate educational program of integrity management. Educational programs have the purpose of communicating the values and standards of behaviour of an organisation, of supporting staff in dealing professionally with ethical risks and dilemmas, and of making them partners in addressing ethical problems. Giving people access to a broad range of information, advice services, and training opportunities shall provide a basis for empowering them to cope with risks effectively and in accordance with the values and standards of the organisation.

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41 For more information, see Congress report CG33(2017)13final "Making public procurement transparent at local and regional levels", Resolution 421(2017) and Recommendation 405(2017)

73. Another important element is the implementation of counselling services, which help staff or entire units to work through both personnel and organisational challenges, to proactively identify potential ethical risk areas or conflicts of interest situations, and to tailor specific strategies to cope with those risks. The primary responsibility of counselling is to alleviate stress and to support everyone in dealing successfully with challenges that can impair the ability of an individual staff member or a unit to succeed in carrying out their duties. Offering counselling services can be an effective means for organisations to support staff in coping with different kinds of integrity violations, such as sexual intimidation, discrimination, observations of fraudulent behaviour and conflicts of interest.

74. *Article 14* provides that integrity policies should define procedures and rights for the reporting of any suspicions of integrity violations. Reporting involves informing internal or external authorities, or the public about the perception of wrongdoing. Public organisations should do their utmost to protect reporters of suspicions of wrongdoing, who can find themselves in a vulnerable position. This should help to deal in a professional manner with concerns raised by employees, councillors, contractors or citizens and to protect them against retaliation. Channels of reporting need to be well-defined, transparent, and open for everybody. The principles and procedures of reporting suspicions of wrongdoing also need to be defined.

75. A confidential advisor is a person who employees can talk to in private about questions concerning integrity. These talks should be kept as confidential as possible. The advisor is knowledgeable about reporting procedures and can advise on whether and how to report suspicions of wrongdoing. In addition to giving advice, confidential advisors can also act as sounding boards, persons with whom one can confidentially share doubts and fears.

76. Research suggests that the thresholds for reporting wrongdoing should be set as low as possible, in order to pick up reports of suspicions of wrongdoing at an early stage. The presence of confidential advisors can assist in lowering this threshold. The threshold to be crossed in order to approach a confidential advisor is lower when the advisor is responsible for both harassment and integrity matters. This enhances the effectiveness of the reporting system. In order to have low reporting thresholds, it is advisable that where a conflict of loyalty arises, the confidential advisor should support the reporter in preference to the organisation. Thresholds will be lowest if the confidential advisor is not the person who receives formal reports, but functions as a sounding board for (potential) reporters.

## 5.7 Section V on privacy and the use of data

77. **Section V** provides that oversight requires balancing the need to oversee and the right of privacy. Digital technology and new forms of communication increasingly affect the management, monitoring, and communication of public organisations. The digitalisation of work processes has the potential to enhance cooperation among units and create transparent processes by means of statistical data analysis, for example in the area of procurement.

78. Organisations are continuously processing data. This includes collecting, analysing, storing, manipulating and reporting information about organisational processes, behaviour, performance, and finances. Most importantly, data is interpreted and analysed on a routine basis. Statistical analysis is the common method to assess large quantities of quantitative data. Such data processing activities have become core elements of modern oversight and control systems. In order to reach meaningful insights about potential risks, ethical violations and other aspects of organisational failure, organisations process data to draw conclusions about on-going or past activities.

79. Persons handling such data have to respect certain principles. *Article 15* urges organisations to guarantee legality, proportionality, efficiency, and privacy as core principles, when it comes to the collection and processing of data. Data needs to be processed in a way that is consistent with the law. The quality and quantity of data being used must be in proportion to the goal of the investigation. In addition, organisations must be aware that the collection and processing of data involves financial and human resources. Therefore, data collection should not be excessive. Using those resources efficiently is an important criterion that should guide any action.

80. Protecting the privacy of data, especially when it comes to information about health, sexual orientation, race or any accusation, must be a priority. This goes in hand with anyone's right to review what is being collected and processed. Obviously, if data is stolen, lost or illegally accessed, the data handling body is obliged to inform the individual. The organisation should therefore set up appropriate procedures to allow the individual concerned to have access to this data.

81. As many organisations become increasingly decentralised, digital technology can enable decentralization without giving up oversight. "Wicked problems", fake news, and a tentative mistrust in the regulatory capacity

of public institutions, make it necessary to strengthen the competence in judging information and data and being able to communicate objectively findings and decisions to the public. By increasing the capacity to collect, analyse, and share data about employees, citizens, and performance, organisations have the potential to learn about themselves, improve work processes, and reduce risks of corruption and fraudulent behaviour. The same developments make it imperative for organisations to actively protect the privacy of staff and effectively regulate mechanisms and institutions of oversight. Mechanisms of audit and control should be guided by a strong commitment to the rule of law, transparency, and be also subject to review.

## **5.8 Section VI on dissemination**

82. **Section VI** governs the dissemination of the Code to the persons actively involved and to the public, and heightening of their awareness of the principles set forth in it. Organisations are responsible for guaranteeing a workplace that limits ethical risks. For the Code to be effective, it needs to be included not only in training sessions for new staff but also in the continuing professional development of existing staff.