

THE CONGRESS OF LOCAL AND REGIONAL AUTHORITIES

Resolution 434 (2018)¹ Conflicts of interest at local and regional level

1. In its many forms, corruption contributes to the deterioration of democratic values and therefore constitutes a threat to the good governance and functioning of the State. In the light of this, in October 2016 at its 31st Session, the Congress of Local and Regional Authorities of the Council of Europe adopted its roadmap of activities for preventing corruption and promoting public ethics and agreed to prepare six thematic reports, including one on conflicts of interest, to identify preventive measures and good practice in the fight against corruption.

2. Conflicts, or the appearance of conflicts, of interest occur in situations where an individual has direct or indirect personal interests that may interfere with the public interest. It most often occurs when the individual has more than one role and exercises professional activities next to their public ones. It can sometimes be problematic to separate these roles, which may result in the public office being used for private advantage.

3. Local and regional authorities are often in charge of service delivery in areas especially vulnerable to corruption, such as urban planning, construction or social services. Their proximity, potential ties and frequency of contact with citizens and local entrepreneurs can create many opportunities for conflicts of interest to arise and put the integrity of locally elected officials to the test.

4. While countries have been focusing on the institutionalisation and implementation of conflicts of interest policies, there is little evidence regarding their actual effectiveness. At the local and regional level, authorities lack data and comprehensive oversight of the regulations regarding, for example, post-employment, gift acceptance or additional activities exercised next to the official ones. This can pose challenges in terms of rules for applying punitive measures or limitations of the definition of conflicts of interest, in terms of the extent of an acceptable ratio between public and private interests, as well as prohibited behaviour. Such a ratio should reflect the position held by the public servant and the extent of “insider knowledge” of an individual, which could potentially be used for private advantage or in the post-employment setting.

5. Although conflicts of interest are one of the most regulated policy fields, the proliferation of rules and regulations can pose difficulties in their management and enforcement. The lack of cohesiveness between such texts can cause confusion and render these texts ineffective. Greater impact could be achieved using value-based approaches, including

education, training, transparency and better monitoring systems.

6. Organisational cultures in which conflicts of interest are more likely to occur tend to be characterised by lower levels of public trust. As the multiplication of policies and codes of conduct does not necessarily increase levels of public trust, but can have the opposite effect, local and regional authorities need to pay attention to the drafting, implementation and dissemination of such tools, while avoiding over-regulation.

7. In the light of the above, the Congress, aware of the differences in legal and administrative structures as well as organisational cultures of different countries and regions within them:

a. invites local and regional authorities of the member States of the Council of Europe to:

i. introduce and implement integrity policies that include both organisational ethics management and external integrity guardians;

ii. set up independent ethics committees to review the financial activity of members, identify potential problems and recommend measures to correct them, before disclosing declarations of personal interests to the public, which should cover additional jobs, private income, shares or investments potentially conflicting with the position, past employment and information about the activities of partners;

iii. define rules on the acceptance of gifts and invitations, taking into consideration the position held by the official or public servant, in order to avoid external influence on the decision-making process and guarantee impartiality in areas such as procurement;

iv. promote proactive disclosure of information prior to public request, to enhance the accountability, transparency and openness of local and regional government and strengthen public trust;

v. ensure that disclosure policies are accompanied by appropriate measures for resolving conflicts of interest that have been identified;

vi. support and invest in soft instruments, such as ethical leadership;

vii. invest in advanced human resources mechanisms, to monitor and regulate employment flows between the private and public sector;

viii. set up regular staff assessments, to evaluate attitudes and development of an ethical climate among staff;

ix. facilitate early and ad hoc reporting of potential conflicts of interest, for example by the declaration of interest of local and regional elected representatives and high-level public officials, before and during office;

x. introduce e-systems to simplify the processing and facilitate the management of declarations of interest;

xi. consult with all stakeholders at local and regional level, when composing rules and regulations on conflicts of

interest, to maximise their compliance with implemented policies;

xii. improve horizontal and vertical co-ordination with other levels of government, to ensure consistency with other monitoring and enforcement mechanisms;

xiii. involve civil society, non-governmental organisations (NGOs) and national associations of local and regional authorities in providing teaching and training of staff in the area of ethics and conflicts of interest regulations, to raise awareness of existing rules and to enable them to anticipate potential integrity breaches;

xiv. invite national associations of local and regional authorities to assist with devising a comprehensive and regulatory framework and contribute to its promotion and understanding, in order to raise awareness of conflicts of interest preventive measures at local and regional level;

b. resolves to establish a coherent and effective system for the prevention, disclosure and oversight of conflicts of interest, covering all members of the Congress.

1. Debated and adopted by the Congress on 7 November 2018, 2nd sitting (see Document [CG35\(2018\)13](#), explanatory memorandum), rapporteur: Peter JOHN, United Kingdom (L, SOC).