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## **EUROPEAN COMMITTEE ON DEMOCRACY AND GOVERNANCE (CDDG)**

### **DRAFT GUIDE ON PUBLIC ETHICS STEPS TO IMPLEMENTING PUBLIC ETHICS IN PUBLIC ORGANISATIONS**

**For adoption**

Secretariat Memorandum  
prepared by the  
Directorate General of Democracy  
Democratic Governance Department

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## Introduction

The terms of reference of the European Committee on Democracy and Governance (CDDG) for 2018-2019 include the specific task iii:

*"As a follow-up to the findings of the good governance section of the Secretary General's Reports on the State of Democracy, Human Rights and the Rule of Law with regard to public ethics:*

- *develop Guidelines on public ethics at all levels of government, taking into account the findings of GRECO and Committee of Ministers' Recommendation Rec(2000)10 on Codes of Conduct for Public Officials;*
- *update the 2004 Handbook of good practice on public ethics at local level, taking into account experience with the implementation of the revised Public Ethics Benchmark Toolkit of the Centre of expertise on local government reform, and extend it to cover all levels of government – local, regional and national;*
- *carry out a feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics and to allow member States to assess their performance."*

At its meeting on 4-5 December 2017, the CDDG decided to set up a working group on public ethics. This group met four times (7-8 June 2018, 4-5 October 2018, 18-19 March 2019, 16-17 September 2019 respectively).

At its 9<sup>th</sup> plenary meeting, on 28-30 November 2018, the CDDG examined the draft Guide [CDDG(2018)4 Addendum] and formulated further recommendations.

The present document sets out the draft Guide, as finalised by the working group on public ethics and reviewed by the Bureau at its meeting on 15 November 2019.

The *draft Guidelines on public ethics* and the *Feasibility study on the preparation of a Council of Europe indicator framework to identify trends with regard to public ethics and to allow member States to assess their performance* appear in separate documents (respectively CDDG(2019)8 and CDDG(2019) 10).

At its meeting of 15 November 2019, the Bureau instructed the Secretariat to submit the draft Guide to the CDDG for approval at its meeting of 9-11 December 2019, in view of its adoption by the Committee of Ministers. In doing so, the Bureau also invited members of the CDDG to provide additional case studies to be included in the Guide, namely in areas such as codes of conduct for members of the judiciary and for members of parliament, use of social media by public officials, private life and public responsibilities, political activity, lobbying and revolving doors (non-exhaustive list).

**Action required**

The CDDG is invited to examine the draft Guide and formulate final comments, if any, including on the addition of relevant case studies. It is further invited to approve the text in view of its transmission to the Committee of Ministers for adoption.

<b>COUNCIL OF EUROPE</b>		
<b>THE</b>	<b>G</b>	<b>GOALS</b>
	<b>U</b>	<b>UNDERSTANDING</b>
	<b>I</b>	<b>INITIATIVE</b>
	<b>D</b>	<b>DEVELOPMENT</b>
	<b>E</b>	<b>ENABLEMENT</b>
<b>STEPS TO IMPLEMENTING PUBLIC ETHICS IN PUBLIC ORGANISATIONS</b>		

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## DEFINITIONS

**Codes of conduct** describe, as specifically and unambiguously as possible, which behaviour is and is not expected or obligatory in a public organisation and the procedures and other requirements that public officials must adhere to in an organisation, and the consequences of either failing to do so or breaching them in practice.

**Conflict of interest** is a situation in which the public official has a private interest, which is such as to influence, or appear to influence, the impartial and objective performance of his or her duties. The public official's private interest includes any actual, potential or perceived advantage to themselves, and to any connected persons. Connected persons include a spouse or civil partner, any other person with whom the public official lives in a family relationship, children or step-children, parents, friends and persons or organisations and institutions with whom they have or have had business, political, or social connections. It includes also any liability, whether financial or civil, relating thereto.

**Ethical conduct** is an adherence to public ethics norms and principles in respect of all official roles and responsibilities in relation to decision-making functions and services.

**Good democratic governance** describes the overall arrangements for the responsible conduct of public affairs and management of public resources in a democracy. The arrangements aspire to be participatory, accountable, transparent, responsive, effective and efficient, equitable and inclusive and respectful of the rule of law.

**Public ethics** is the practical implementation of ethical conduct by public officials whereby the public good is placed before private interests in accordance with the law so that the confidence and trust of citizens in the action and decisions of public officials and public organisations is maintained and strengthened.

A **Public Ethics Framework** should be founded on the Principles of Public Ethics and should comprise as appropriate strategies, institutions, legislation, regulations, codes of conduct, and guidance which, in their entirety, work together to enable and embed ethical practice throughout the activities of public organisations and in the decision making and activities of individual public officials.

An **organisational public ethics framework** is the application, at organisational level, of the public ethics framework that a State has put in place.

**Public ethics organisational culture** describes the environment, in an organisation, that is created by a functioning public ethics framework, where there is a shared understanding of the expectations and requirements of standards of conduct for each category of public official.

**Public official** includes persons who are elected or appointed to a public mandate or function, such as members of national and regional governments, members of national and regional legislatures, local executives and local elected representatives, and holders of a judicial office; persons who are employed by a public organisation; and persons who act on behalf of a public organisation without having been elected, appointed to a public mandate or function or employed by a public organisation.

**Public organisations** include national, regional or local institutions or administrations; companies or similar entities managed or financed by such an institution or administration, or by the state; or private sector, including non-profit, entities providing public services.

**Public service** encompasses public decision-making, functions and services at local, regional and national level.

## INTRODUCTION

The Guide '*Steps to Implementing Public Ethics in Public Organisations*' [The **GUIDE**] is a practical tool addressed to public officials which seeks to provide guidance and examples of good practice on:

- the development of a public ethics framework in line with Council of Europe standards and best practice;
- how to implement a framework efficiently and effectively;
- and how to promote an organisational public ethics culture.

The **GUIDE** should be read in conjunction with the Guidelines on public ethics, which it reflects and seeks to expand upon and illustrate in practical terms by providing concrete examples of best practice from the experience of member states and through references to Council of Europe texts, documents and recommendations emanating from a wide range of Council of Europe bodies. This **GUIDE** in practice supersedes the 2004 Handbook which applies solely to the local level.

Several bodies are referred to in the **GUIDE**, special mention is reserved for the Group of States against Corruption (GRECO) and its country-specific monitoring work which makes it possible to identify trends, challenges and good practice in the subject matters under its remit.

The **GUIDE** acknowledges that member states have different historical backgrounds, cultural and societal settings and constitutional, legal and organisational arrangements. It also acknowledges the important distinctions between national and sub-national levels of government and recognises that different public organisations have their own characteristics and features and varying degrees of autonomy in setting their own ethics frameworks.

The **GUIDE** has no pretence to be exhaustive, or to be implemented in all countries, at all levels, or in all organisations or all at the same time.

The **GUIDE** is intended to be a living document, reflecting the latest developments concerning public ethics, including areas that have only recently come to the forefront of public attention. To be a useful tool in the hands of practitioners, the **GUIDE** should be updated by the Council of Europe on a regular basis to reflect societal changes and the evolving discourse, legislation, measures and policies concerning public ethics.

The **GUIDE** aims to provide guidance on how to establish a public ethics framework and culture through the following complementary steps:

<b>G</b>	<b>GOALS</b>	Establish the <b>goals</b> - the core ethical principles that member States want public officials to reflect in decision-making, functions and the provision of services. The Principles of Public Ethics common to all public officials are identified in the guidelines.
<b>U</b>	<b>UNDERSTANDING</b>	Ensure society <b>understands</b> the principles and the standards and obligations for public official, so that perceptions of, and activities undertaken by public officials and public organisations, reflect the Principles of Public Ethics.
<b>I</b>	<b>INITIATIVE</b>	Leaders at all levels in public life, whether elected or at senior management level, must take the <b>initiative</b> and commit to establish the Principles of Public Ethics through a Public Ethics Framework and culture. Leaders should also, according to the most effective approach within their constitutional and political contexts, take the initiative in working together at all levels to agree an overall strategic approach and ensure that a generic legal, institutional and procedural framework is available to help shape and embed the organisational implementation of the Public Ethics Framework.
<b>D</b>	<b>DEVELOPMENT</b>	<b>Development</b> of the Public Ethics Framework within public organisations including by providing management with guidance on how to create and uphold an ethical culture. Through guidance, management of conduct, provision of induction, education and training, and human resource management.
<b>E</b>	<b>ENABLEMENT</b>	<b>Enablement</b> of an ethical culture through provision of guidance on the reinforcement of and compliance with standards of conduct, dealing not only with means and measures to identify and sanction unethical behaviour but also ways to promote the Principles of Public Ethics, in everyday practice.



# 1. STEP 1: SETTING THE **G**OALS – PRINCIPLES OF PUBLIC ETHICS AND STANDARDS OF CONDUCT

## 1.1. The enabling environment

Amongst the preconditions for strengthening public ethics are the respect for human rights, the rule of law, fundamental freedoms and democratic principles. Public ethics shall not thrive unless member States establish and maintain an enabling environment whereby an effectively pluralist democracy is guaranteed, respecting democratic norms and in conformity with the Council of Europe's 12 Principles of Good Democratic Governance.

Democratic governance fundamentally depends on public trust. Without broad confidence of the public in the integrity of those they elect to represent them, and of those employed to deliver services to them, democratic institutions will falter. Economies cannot flourish if governance is defective. Power cannot be devolved effectively to local governments if those receiving it are self-serving. Ultimately, democracy will fail in societies that do not maintain reasonable standards of ethical behaviour at all levels of public life. Governments across Europe are increasingly aware that standards of ethical behaviour must be actively nurtured.

## 1.2 The Principles of Public Ethics

In implementing public ethics in public organisations, the first step is setting the goals: defining the guiding principles that will shape the conduct of those in public office.

Principle 6 of the Council of Europe's 12 Principles of Good Democratic Governance – on ethical conduct - reads as follows:

- the public good is placed before individual interests;
- there are effective measures to prevent and combat all forms of corruption;
- conflicts of interest are declared in a timely manner and persons involved must abstain from taking part in relevant decisions.

As set out in the Guidelines on public ethics, the principles that apply to all public officials are:

- a. **LEGALITY**: public officials must act and take decisions in accordance with the law;
- b. **INTEGRITY**: public officials must put the obligations of public service above private interests when carrying out of their mandate or functions;
- c. **OBJECTIVITY**: public officials must, in carrying out their mandate or functions, act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias;
- d. **ACCOUNTABILITY**: public officials are, in carrying out their mandate or functions, accountable for their actions and must submit themselves to the scrutiny necessary for this;
- e. **TRANSPARENCY**: public officials should, in carrying out their mandate or functions, act and take decisions in an open and transparent manner, ensure access to information, and facilitate understanding of how public affairs are conducted;
- f. **HONESTY**: public officials should be truthful;
- g. **RESPECT**: public officials should behave with courtesy and consideration toward others;

- h. **LEADERSHIP:** public officials should exhibit the principles of public ethics in their own behaviour, supporting and promoting those principles, and challenging poor ethical behaviour.

### **TRANSPARENCY**

#### ***The Transparency Programme initiative in Greece***

In Greece, since October 2010, all government institutions have been obliged to upload their acts and decisions on the Internet with special attention to issues of national security and sensitive personal data. Following the latest legislative initiative (Law 4210/2013) of the Ministry of Administrative Reform and e-Governance, administrative acts and decisions are not valid unless published online. The main objectives of are:

- safeguarding transparency of government actions
- tackling corruption by exposing it more easily when it takes place
- respecting legality and delivering good administration
- reinforcing citizens' rights, such as the participation in the Information Society
- enhancing and modernising existing publication systems of administrative acts and decisions
- making all administrative acts available in formats that are easy to access, navigate and understand, regardless of the citizen's level of knowledge of the inner processes of the administration

The transparency programme introduced unprecedented levels of transparency within all levels of Greek public administration and established a new "social contract" between the citizen and the state. This initiative has a silent yet profound impact on the way officials handle their executive powers. In almost 9 years, 35 925 086 acts and decisions have been published on the Transparency Portal from 4 827 public authorities. The current rate of uploads is approximately 19 000 decisions per working day.

The official website, [diavgeia.gov.gr](http://diavgeia.gov.gr), provides information on and assistance for operational and technical issues along with training and supporting material.

### **1.3. Standards of conduct**

Embodying these principles in their own behaviour, the conduct expected of all public officials includes:

- a. avoiding any situation where there could be for them a **conflict of interest** and, if the situation arises, removing themselves immediately from it and complying with relevant rules for handling conflicts of interest including rules of disclosure;
- b. refraining from **using public resources** for private purposes or in any other way which is contrary to the law;
- c. not accepting for themselves, or any connected persons, **gifts, invitations and hospitality, advantages and favours, donations and other benefits**, which might be, or might reasonably be perceived to, place them under an improper obligation; not demanding or soliciting for themselves or any connected person gifts and benefits;
- d. making all **declarations** in compliance with the relevant rules of their assets, income, liabilities and other interests, and those of connected persons;
- e. avoiding participation in any prohibited outside activities during their period of employment or mandate, and post that period in compliance with relevant rules,

- avoiding activities through which they would gain a personal or professional advantage due to their having been a public official;
- f. avoiding any perception of prejudice, favouritism, including nepotism;
  - g. avoiding discrimination, refraining from hate speech, harassing or bullying, showing respect for **equality and diversity**, and working actively towards a culture of fairness and tolerance that appreciates diversity;
  - h. **being discrete** when dealing with information of a confidential or private nature.

## ***EQUALITY AND DIVERSITY***

### ***The United Kingdom Civil Service Code of Conduct***

The code sets out the standards of behaviour expected of all civil servants. These standards are based on the core values of integrity, honesty, objectivity and impartiality, which are set out in legislation. The value of Impartiality is expanded upon to state: *'You must: carry out your responsibilities in a way that is fair, just and equitable and reflects the Civil Service commitment to equality and diversity. You must not: act in a way that unjustifiably favours or discriminates against particular individuals or interests.'*

The Civil Service's commitments to equality are detailed in strategies and policies relating to employment, engagement with communities and stakeholders. Targets are set to make a reality of these policies, for instance to increase the flow of ethnic minority and disabled staff into the Senior Civil Service and performance against these agreed targets is tracked on a quarterly basis and published to increase transparency.

### ***Public Sector Equalities Duty***

In the UK, the Public Sector Equality duty (contained in section 149 of the Equality Act 2010), requires public bodies and others carrying out public functions to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations, in the exercise of their functions.

The duty relates to the protected characteristics identified in the 2010 Act; age, disability, sex, gender reassignment, religion or belief, pregnancy and maternity, sexual orientation and, in certain circumstances, marriage and civil partnership.

The duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. Complying may involve treating some people better than others in order to provide a service in a way which is appropriate for some groups of people. For example, a public body may provide computer training to older people to help them access information and services, or a university may provide car parking spaces for disabled students to help them access courses, or a local authority may deliver women-only services for female victims of sexual violence or domestic violence to ensure women have access to the services needed.

### ***Equality Impact Assessments***

It is recognised as good practice to keep a record of how decisions are reached to help public bodies demonstrate they have considered the aims of the Equality duty. An Equality Impact Assessment is often carried out by public authorities prior to implementing a policy, with a view to ascertaining its potential impact on equality. An assessment is not required by law but they are a way to facilitate and evidence compliance with the duty.

### **PROHIBITION OF HATE SPEECH**

#### ***The Code of conduct for members of parliament of Albania (2018)***

The Code of conduct for members of parliament of Albania (2018) contains the explicit prohibition of hate speech by members of parliament:

1. The use of indecent, insulting, and threatening language, personal insults and physical attacks in the Assembly, shall be strictly prohibited.
2. The member of parliament shall be prohibited to:
  - a) use speech that incites hate on the grounds of race, gender, age, national origin, ethnicity, religion, social origin, disability, and economic, educational, social, and health state, civil, family, or marriage status, sexual orientation, gender identity, parental responsibility, genetic predisposition, belonging to a certain group, or any other grounds;
  - b) display forms of discrimination and stereotyping in daily communication, political speeches, parliamentary and non-parliamentary activities where s/he takes part.
3. In the event of violations of points 1 and 2 of this article, disciplinary measures shall be applied against the member of parliament, in accordance with the procedures specified in the Assembly Rules of Procedure.

#### ***ECRI General Policy Recommendation (GPR) No. 15 on Combating hate speech***

GPR No. 15 recommends that the governments of Council of Europe member States provide support for self-regulation by public and private institutions (including elected bodies, political parties, educational institutions and cultural and sports organisations) as a means of combating the use of hate speech, and accordingly encourage the adoption of appropriate codes of conduct which provide for suspension and other sanctions for breach of their provisions, as well as of effective reporting channels (...).

The explanatory memorandum to GPR No. 15 explains that *'the existence of such codes is all the more important where the position of the speaker may entail an immunity – such as in the case of judges and parliamentarians – since that may preclude any other forms of action being taken against the use of hate speech by the person concerned'*. It also points out that, when such codes exist, they *'do not always address the use of hate speech in specific terms. Instead they can be concerned with various forms of conduct which may come within its scope, such as the use of insulting, offensive or threatening language, or they may refer only to the requirement to respect dignity and equality in very general terms. Unfortunately, not all forms of hate speech are treated in practice as being embraced by such formulations and, as a result, no action is taken against some users of hate speech, including those who use racist and homo- and transphobic speech. The use of codes to tackle hate speech is likely to be more effective if the conduct being proscribed is explicitly formulated by reference to the understanding of hate speech'* as in GPR No. 15.

### **TACKLING SEXISM IN THE PUBLIC SECTOR**

#### **Committee of Ministers Recommendation (2019) 1 on Preventing and combating sexism**

In 2019, the Committee of Ministers adopted the first international instrument setting out a definition of 'sexism'. The Guidelines which are appended to the Recommendation deal also with the so far little explored issue of sexism in the public sector, acknowledging that: *'sexism in the public sector and reliance on gender stereotypes can result in the refusal of public services and unequal access to resources. At the same time, women working in the public sector, including those elected or members of decision-making bodies, at all levels, frequently face challenges to their dignity, legitimacy and authority owing to sexism and sexist behaviour'*.

To tackle this situation, the governments of Council of Europe member States are invited to consider the following measures:

*'II.E.1. Include provisions against sexism and sexist behaviour and language in internal codes of conduct and regulations, with appropriate sanctions for those working in the public sector, including elected assemblies.*

*II.E.2. Support initiatives and investigations undertaken by parliamentarians, civil society organisations, trade unions or activists to address sexism in the public sphere.*

*II.E.3. Promote the inclusion of gender equality provisions within the applicable legal framework as good public tender/procurement practice.*

*II.E.4. Ensure training of public sector employees on the importance of non-sexist behaviour in working with the public, as well as with workplace colleagues. Such training should include the definition of sexism, its different manifestations, ways to deconstruct gender stereotypes and biases, and how to respond to them.*

*II.E.5. Inform recipients of public services about their rights as regards non-sexist behaviour through, for example, awareness-raising campaigns and specific reporting schemes to identify and mediate possible problems.*

*II.E.6. Promote the strengthening and implementation of internal disciplinary measures for sexism in the public sector and in all decision-making and political bodies, for instance through cutting or suspending responsibilities and funds, or through financial penalties.'*

While the behaviour described above should be required from any public official, there are specific standards of conduct that are required from each category of public officials, according to whether they are elected, appointed or employed, the nature of the functions they discharge or the level of government or administration where they exercise such functions.

## **CODES OF CONDUCT FOR SPECIFIC CATEGORIES OF PUBLIC OFFICIALS**

### ***Finland: Ethical code of conduct of the police (2019)***

In Finland, the police force has traditionally been the most trusted institution in society. Some problems found inside the Police Administration and made public, challenged this high position. The solution was to further develop administration by updating the ethic code. The solution was to further develop administration by updating the ethical code. The new ethical code of conduct is derived from police values and strategy and is characterized by a preventive approach to the problems in society. The code covers eight ethical principles:

1. Police activities are predictable and always justifiable by legislation
2. The police acts in a fair and equal manner
3. The police is open and has a positive attitude to publicity
4. Police conduct is exemplary
5. The police are impartial and independent
6. Police staff work with a sense of community
7. Police values are evident in leadership
8. The police use their resources appropriately, effectively and responsibly

Ethics are a sign of good management, and the purpose of the ethical code of conduct is to strengthen general confidence in the police. It is vital that everyone commits and adheres to the code of conduct. In the future, a number of methods will be applied to implant the code of conduct to everyday police work, everyday decision-making and in the use of discretion, but the key is to adopt and absorb the purpose of the code of conduct appropriately.

### ***Armenia: Ethics and Rules (Code) of Conduct for Local Self-Government Bodies (2016)***

The code was adopted in 2016. It is part of an effort aimed at improving the local self-government system. It establishes general rules that should be followed by the local government bodies (community council, head, servant and discretionary officials) in exercising their functions. Among such rules is the commitment to put the public interest above all, display an exemplary behaviour; refrain from partial attitude, unauthorised disclosure of information, conflict of interest, making use of insider information to one's own benefits, voting on a matter one has personal, material, monetary or other direct interest in; follow restrictions on holding two or more offices. The local self-government bodies form an Ethics Commission that consists of local officials and citizens of the community. The Commission has several functions. It shall supervise the implementation of the rules and monitor the reports. In cases where breaches of the rules exist it establishes penalties.

<https://rm.coe.int/armenia-ethics-and-rules-code-of-conduct-for-local-self-government-bod/16808b2d91>

### ***Serbia: Code of conduct of civil servants (2015)***

Pursuant to Article 164, paragraph 2 of the Law on Civil Servants, the High Civil Service Council of the Republic of Serbia adopted the *Code of conduct of civil servants*. This Code regulates the rules of ethical conduct for civil servants and the monitoring of its implementation. It aims to further establish standards of integrity and rules of conduct of civil servants in state administration, government services and professional services of

administrative districts and to inform the public of the conduct that is entitled to expect from public servants.

Issues covered by the Code:

- Compliance with the provisions (A civil servant is obliged to comply with the provisions of this Code. The behavior of civil servants contrary to the provisions of this code represents a minor violation of official duties, unless it is defined by law as a serious violation of the duty.)
- Public confidence (A civil servant is obliged to behave in a way that contributes to the preservation and fostering public confidence in the integrity, impartiality and efficiency of the body.)
- The legality and impartiality in the work (A civil servant performing his duties within the given powers, in accordance with the law and other regulations and acts according to the rules and provisions of this Code. A civil servant is obliged to adopt, in his/her work, a professional and impartial approach to all parties, that does not give priority to anyone for any reason, other than professional.)
- Political Neutrality (A civil servant abides by the principles of political neutrality in the performance of their duties.)
- Realizing the public interest (A civil servant is obliged to act in the decision-making process so that each party can more easily protect and realize their rights and legal interests, taking into account that this will not undermine the public interest.)
- Preventing conflicts of interest (In performing their affairs a public official should not allow his private interests to come into conflict with the public interest. He is obliged to take account of actual or possible conflict of interest and take measures provided by law for the avoidance of conflicts of interest.)
- Dealing with gifts
- Treatment of entrusted funds
- Information Management
- Privacy policy
- Dealing with citizens
- Dealing with superiors and other civil servants
- Preserving the reputation of the Authority
- Standards of dress at work
- Protection of standards of conduct and prohibition of mobbing
- Monitoring the implementation of the Code

### ***Austria: Ethical behaviour for civil servants (2012)***

Besides the general provisions of national criminal law as well as federal civil service employment law, that stipulate policies for ethical behavior of civil servants (i.e. general duties and oath of office of civil servants or the prohibitions of the acceptance of gifts), there exists a code of conduct to prevent corruption *Die VerANTWORTung liegt bei mir* ('The RESPONSibility rests with me'), that was first edited in 2008 and adopted in 2012 as a guideline for government departments, local authorities and especially for each civil servant himself. Especially the standards public servants have to observe for their daily professional activities are explained and examples of required behaviors and such contrary to duty are provided. The code of conduct *Die VerANTWORTung liegt bei mir* is currently under review by the Coordinating Body for Combating Corruption involving all stakeholders under the leading competency of the Federal Ministry for the Civil Service and Sport. This is apparent from the fact that this code of conduct is applicable across all government departments and local

authorities. Certain departments or local authorities also have their own codes of conduct, which also apply.

[http://oeffentlicherdienst.intra.gv.at/moderner\\_arbeitgeber/korruptionspraevention/infos/V\\_erhaltenskodexEnglish\\_2012\\_druck.pdf?4ppzt1](http://oeffentlicherdienst.intra.gv.at/moderner_arbeitgeber/korruptionspraevention/infos/V_erhaltenskodexEnglish_2012_druck.pdf?4ppzt1)

### **Scotland: Code of Conduct for Members of the Scottish Parliament (2006)**

*The code of conduct for Members of the Scottish Parliament (MSPs) sets out the standards of conduct for MSPs, when they carry out their parliamentary duties. The code of conduct provides details of the statutory requirements for the registration of members' interests as set out in the Scottish Parliament Act 2006, including types of financial interest which might be thought to influence a member's actions, speeches or votes in the Parliament and, in some circumstances, interests which are in connection with political activities. The code of conduct is divided into nine sections setting out in detail procedures for declaration of interests, categories for registrable interests, rules of engagement with constituents, lobbying and access to MSPs etc. The code of conduct is enforceable i.e. members are required to understand and comply with its rules and a breach could lead to sanctions being imposed on a member of the Scottish Parliament. Complaints in relation to the conduct of MSPs under the code, are initially investigated by the Commissioner for Ethical Standards in Public Life in Scotland.*

<https://www.parliament.scot/msps/code-of-conduct-for-msps.aspx>

## **2. STEP 2: PROMOTING UNDERSTANDING AND TAKING THE INITIATIVE**

Good democratic governance requires leadership as well as an inclusive, participatory approach to public ethics. While public officials should take the initiative within their organisations and activities to promote a public ethics organisational culture and to embody ethical behaviour, society at large should be made aware of the efforts that are being made and be able to contribute to them.

**2.1 An informed and engaged society** understands the principles that underpin public decision-making, the exercise of public functions and the delivery of public services; has trust in the transparency and accountability of public organisations; has awareness and knowledge of its rights and the procedures associated with public decision-making, functions and services; and understands the roles and responsibilities of elected and appointed public officials;

**2.2. Leadership** is required from both the political and administrative spheres, in consultation with relevant representative organisations and other stakeholders, to take the initiative in drafting and committing to the Principles as well as facilitating the design and delivery of ethical frameworks for public organisations. Leadership is also necessary to ensure that positive action is taken to promote equality and diversity, and to explain to the general public, that upholding the Principles of Public Ethics will require action to be taken against the spreading of hate speech, or discrimination by whatever means.



## 2.1. UNDERSTANDING. An informed and engaged society

It is essential that care is taken to avoid providing information and evidence in a misleading or inaccurate manner. Channels to raise awareness of civil society and promote active engagement may include:

- civic education in all levels and forms of education (for example, preschools, schools, universities, civic education classes, economics, arts, sports; youth integrity camps, the Third Age universities);
- encouraging active participation in public life with a particular emphasis on gender balance and the involvement of young people and persons from disadvantaged groups in its different facets;
- ensuring inclusive consultation in decision-making processes, including through consultative or advisory panels as open and accessible as possible;
- awareness-raising on ethical conduct in public affairs, explaining what ethical conduct means inside public organisations and in their relations with the public;
- publication of relevant information on public ethics organisational frameworks, including codes and complaint/redress procedures, rules on conflicts of interest, etc.;
- engaging with independent media and journalists as important partners in raising awareness.
- 

This approach to civil participation and public ethics seeks to promote:

- respect for ethical principles in the delivery of public decisions, functions and services;
- easy access to information, public decisions and services, consistent with the law and taking into account the specific needs of different groups of public service users;
- a proactive application of the right to access to official documents and information, which should be publicly available unless this is limited by the law; access should be facilitated by publishing information on the Internet and storing data in user-friendly formats;
- full information about and ease of access to complaint, reporting and redress mechanisms;
- understanding the roles, responsibilities and ethical standards of public officials when interacting with the public;
- encouragement in the use of social media to promote dialogue, informed discussion and debate, as well as respect for diversity and equality while rejecting hate speech.

### **ACCESS, TRANSPARENCY AND CITIZEN PARTICIPATION**

#### ***United Kingdom: accessibility requirements for online public service***

Websites and applications of UK public sector bodies are required to meet common accessibility standards. The Government's Digital Service has established 10 digital design principles. The first is to 'Start with user needs' which states that service design starts with identifying user needs which should not be determined using assumptions but should be informed by research and talking to users and by empathy for users. The sixth design principle states, 'this is for everyone' and explains that everything that is built should be as inclusive, legible and readable as possible even if this means there must be a sacrifice on the elegance of the design. The Digital Service has developed persona profiles including a partially sighted screen-reader user, a user with rheumatoid arthritis, a user with Asperger, a dyslexic user, a profoundly deaf user, to support developers to test the accessibility of design early in service-development.

**Italy: "OpenCoesione" (2012)**

The OpenCoesione platform is part of a transparency effort designed to foster participation of the citizens. It was launched by the Italian government in 2012. With the help of the portal, data on all projects which were facilitated with the help of the EU Structural Funds and national funds were made publicly available. The data set is available in an open format and thus easily accessible what helps to increase accountability and trust. The project shows in detail how public money is spent. It enables citizens to monitor the use of public resources and invites their participation. Complementing the OpenCoesione platform, a civic monitoring marathon ("monithon") is used for citizens to upload their collected evidence. The data is published along with official data. It helps to better understand what the projects are about and to assess the performance of an investment. In addition, the "OpenCoesione School" project helps high school students to learn how cohesion policy affects their own neighborhoods. After a successful first round (2007-2013) the portal is currently in its 2nd cycle (2014-2020) <https://opencoessione.gov.it/en/>

**UK: Local Government Transparency Code (2015)**

Information on how money is spent and on how local authorities carry out services needs to be accessible to hold local authorities accountable. The code presents the minimum requirements for local authorities to publish data following three principles: openness, timeliness and responsiveness. The publication of the data ensures local communities have access to data on how money is spent, how assets are managed or how decision making takes place. This transparency invites people to participate in local democratic processes and to actively shape services. Local authorities are encouraged to regard data as a resource not only to themselves, but also their partners and local people.

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/408386/150227\\_PUBLICATION\\_Final\\_LGTC\\_2015.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/408386/150227_PUBLICATION_Final_LGTC_2015.pdf)

**3.2. INITIATIVE. Leadership and ownership****3.2.1 Personal commitment**

Leaders, especially elected officials and senior management of public organisations, should take the initiative in demonstrating a public commitment to the principles of public ethics and to promoting them within their organisations. Leaders should promote ethical conduct as an integral aspect of public life. Those having leadership responsibilities in public life should work together to shape, promote and support an overall strategic approach to public ethics.

**3.2.2. Ownership**

Individual leadership, however, is not sufficient. Institutional leadership and ownership of the public ethics framework are crucial to its implementation. This should be led by one or more independent authorities that can take initiatives in the area of public ethics but also react to deficiencies and breaches. These authorities should have an appropriate level of oversight in the following matters:

- the arrangements that are put in place to collect and publish declarations of interest, rules and registers relating to gifts and hospitality;
- preparing and publishing reviews, reports and guidance, where appropriate, in relation to the details of relevant codes, strategies, action plans, training programmes, etc.;
- collecting information and feedback on the application of existing standards and policies;
- analysing trends, carrying out surveys, distributing good practice and providing advice to organisations and the public;
- addressing loopholes, assessing ethically questionable conduct or policies and dealing with complaints;
- involving and/or liaising with those who, at organisational level, are in charge of the above-mentioned tasks, for instance ethics commissions, confidential councillors or integrity officers, etc.

Bodies with responsibilities in the field of public ethics may include parliamentary committees, public ethics commissions, public service commissions, specialised anti-corruption agencies with responsibilities in the field of public ethics, independent national integrity offices or ethics councillor's offices. Despite their different functions and composition, these bodies play a key role in leading the implementation of STEPS 3 and 4 of this **GUIDE**: developing a public ethics framework and effectively implementing it.

#### ***BODIES WITH RESPONSIBILITIES IN THE FIELD OF PUBLIC ETHICS***

##### ***Estonia: Council of Ethics of Officials (2012)***

The Council of Ethics of Officials was established following the adoption of the Civil Service Act from 2012. The council's primary function is to promote the core values and ethics of officials. Members of the council are proposed by the minister responsible for the area for up to three years. It provides explanations for the implementation of the code of ethics for officials, advises officials and authorities in charge of drafting public ethics strategies and action plans and provides opinions about the compliance of an official's actions when requested by an official.

<https://www.riigiteataja.ee/en/eli/509072014003/consolide>

##### ***Slovenia: Commission for the Prevention of Corruption (2010)***

The Commission for the Prevention of Corruption of the Republic of Slovenia was established in 2010. It promotes the implementation of the Integrity and Prevention of Corruption Act. The Commission is independent from any other state institution or ministry. The Commission aims to prevent and investigate corruption, breaches of ethics and integrity in public office on a broad range of issues, including post-employment - persons who left a public office cannot be engaged in any manner for the provision of services as an external contractor for two years) and lobbying activities - all legal persons who want to perform lobbying activities in Slovenia have to be registered in the central register for lobbyists.

<https://www.kpk-rs.si/kpk/wp-content/uploads/2018/06/ZintPK-ENG.pdf.pdf>

### 3. STEP 3: **D** EVELOPING A PUBLIC ETHICS FRAMEWORK

#### 3.1. Components

An **organisational public ethics framework** is the application, at organisational level, as appropriate, of the public ethics framework that a State has put in place.

A public ethics framework should be founded on the Principles of Public Ethics and should comprise strategies, institutions, legislation, regulations, codes of conduct, and guidance which, work together to enable and embed ethical principles in public organisations and the activities of public officials. The components of the framework should provide for the practical implementation of ethical conduct.

##### **3.1.1. Strategies and action plans**

Having a national strategy for public ethics is a solid foundation for a public ethics framework. Such a strategy should be adapted to the sub-national level and should also provide a benchmark for any strategies, codes and guidance prepared for specific categories of public organisations. The judiciary and the legislature will maintain the necessary independence from those plans put in place by the government.

The elaboration of such strategies, and the action plans to implement them, should be transparent and inclusive and address relevant and emerging ethical risks.

Strategies and action plans should reflect the specific requirements of different categories of public officials, specific characteristics of sectors and public organisations, and levels of administration or government. There should be procedures to monitor and report on progress, including recommendations for revision, reform and adaptation by public organisations within a stated schedule or timetable.

##### **3.1.2. Legislation and regulations**

While strategies may offer high-level policy guidance, making certain provisions in legislation and regulations is essential. These legal provisions are provided primarily by the constitution; related legislation, such as civil service laws, public administration law, administrative law, criminal law, anti-corruption laws, etc; as well as regulations.

To be effective, this legal framework should:

- be clear, coherent and comprehensive;
- be actively promoted;
- be known to public officials themselves and, in its gist, to the general public;
- regulate some specific and high-risk areas such as conflicts of interest; benefits, gifts and hospitality; handling of information; lobbying; proper use of public resources; and bring into scope modern challenges such as the use of social media or new models for the delivery of public services;
- be regularly assessed and updated to respond to new or emerging risks.

Furthermore, the requirements for codes of conduct for all public officials should be set out in legislation and/or regulation, as appropriate.

### **3.1.3. Codes**

Legislation and regulations are complemented by codes. These may be codes of conduct – defining explicit requirements, unethical conduct and sanctions -, codes of ethics – setting out and promoting principles -, or a combination of the two.

Codes play a special role in ensuring the effectiveness of the public ethics framework. They can offer a common understanding of issues and provide a basis for adaptation according to specific organisational contexts and requirements. They place an emphasis on the individual's responsibility for their behaviours, rather than relying on external bodies or authorities to supervise and regulate behaviour.

In any case, they should:

- lay down values and principles in a clear and concise manner, linking them with standards of conduct relevant to each category of public official;
- focus the attention of public officials on their personal responsibility to model the values, norms and expected behaviour and alert them to key issues, risks and prohibitions;
- be effectively disseminated, promoted and implemented and subject to a plan for review.

#### **CODES OF CONDUCT AND CODES OF ETHICS**

##### **Denmark: Code of Conduct in the Public Sector (2017)**

The code of conduct is intended to provide rules and principles that apply in the public sector for both employees and for the public authorities. The code addresses in particular scenarios in "grey areas". The code is already the revision of an earlier edition (2007) and is divided into ten chapters. The first chapter outlines the fundamental values that serve as the basis of the code: openness, democracy, the rule of law, objectivity, integrity, impartiality and legality. The other chapters cover a wide range of issues such as the duty of confidentiality, gifts and other benefits as well as secondary employment or freedom of expression. Throughout the code examples describing certain situations are provided.

<https://modst.dk/media/18742/code-of-conduct-in-the-public-sectorforside.pdf>

##### **Estonia: Public Service Code of Ethics (1999)**

The Public Service Code of Ethics was adopted in 1999 as an annex to the Public Service Act. It sets out 20 principles that Estonian public officials are expected to follow. An official is defined as a citizen in the service of people. Among these principles one can find: performing functions impartially based on respect for the Constitution and other laws, pursuing the public interest, impartiality, making decisions based on public and generally understandable criteria, treating property entrusted to him or her economically, expediently and prudently.

<http://workspace.unpan.org/sites/internet/Documents/UNPAN038382.pdf>

### **3.2. How to develop an organisational public ethics framework**

Public ethics strategies or action plans should be drafted also at organisational level, to provide public officials with the standards expected of them.

Devising and implementing a public ethics framework at organisational level requires a planned and structured approach and the allocation of clear roles and responsibilities.

The development of public ethics strategies or public ethics action plans should be based on the assessment of the public ethics risks and threats specific to a given public organisation and to the different categories of public officials who are involved in its work. Its scope may include corruption, abuse or misuse of office, breach of confidentiality, nepotism, favouritism and patronage, influence-peddling, post-employment offers, lobbying, etc.

The approach to drafting should be inclusive, with the involvement of public officials, trade unions, professional associations and staff groups, etc., and as appropriate civil society, citizen panels or other representative associations.

### **3.3. Content of a public ethics framework**

#### **3.3.1. General issues**

In its entirety, a public ethics framework should provide for standards and obligations on the following matters:

- a. public officials' individual interests and those of connected persons – the declaration of such interests and the handling of conflicts of interests;
- b. public officials' outside activities – the declaration of such activities; the classification of permissible and prohibited outside activities for different categories of public officials; the arrangements and conditions for their undertaking outside activities;
- c. activities undertaken by public officials post their employment or the end of their mandate
- d. gifts, favours and hospitality, offered or received by public officials and public organisations;
- e. the use of public resources, equipment and property by public officials and public organisations;
- f. public organisations' internal control and accountability measures in public procurement, contracts, and the payment of grants;
- g. the requirements of professional bodies which are relevant to categories of public officials;
- h. the protection of whistle blowers, in line with Recommendation (2014)7 of the Committee of Ministers to member states on the protection of whistle blowers;
- i. lobbying activities, in line with Recommendation (2017)2 of the Committee of Ministers to member states on the legal regulation of lobbying activities in the context of public decision making;
- j. transparent delegated decision-making and clear reporting requirements;
- k. citizens' access to information, including a presumption in favour of disclosure;
- l. access to documents and the re-use of documents by public officials;
- m. public officials' handling of information and confidentiality;
- n. public officials' use of the internet including social media;
- o. bullying and harassment;
- p. the promotion of equality and diversity along with the prohibition of discrimination and hate speech;
- r. reporting breaches of a code of conduct applicable to public officials.

### **3.3.2. Specific issues**

#### ***Private life and public responsibilities***

Exercising public responsibilities often demands standards of conduct in private life that may be higher from those expected from the general public. This belongs to the realm of ethics rather than legality, for instance the kind of discourse which is held on social media or the wearing of faith symbols and visible signs of political, social or other affiliation.

#### ***Conflict of interest***

The standards on conflicts of interest should ensure that public officials cannot be parties to a decision in which they could be perceived as having a conflict of interest. There should be clear rules and guidance on:

- what kind of interests, depending on the legal or constitutional framework, should be declared;
- who should declare what information and when;
- who should have access to that information;
- who should be responsible for determining the existence of an interest, the frequency with which the existence of an interest should be reviewed.

Furthermore, the effective regulation of conflicts of interests requires:

- the establishment of a declaration system which:
  - is reasonable in what it requires for disclosure and takes into account risk factors pertaining to different categories of public officials;
  - includes precise deadlines and frequency for the registration of interests;
  - is manageable;
  - is easily accessible by those having to report, by supervisory organisations and the public;
- the definition of which body keeps, makes available, verifies and scrutinises information collected through declarations with due regard to limitations concerning personal data protection;
- arrangements for resolving conflicts of interest, for instance:
  - the removal of the public official from involvement in the decision-making process in question,
  - restriction of access to particular information,
  - the re-arrangement of duties and responsibilities or transfer to a different duty,
  - divestment or liquidation of the interest by the public official, etc.;
- clear guidelines on what interests are prohibited or when permission should be sought, for what and from whom.

#### ***Gifts and hospitality***

Similar policies and procedures should be developed for the related area of benefits, gifts and hospitality, where policies and procedures should clarify what is and what is not acceptable; what should be reported and whether registers should be kept. These policies should also consider cultural aspects and the implications of refusals of gifts in certain contexts.

## **CODES OF CONDUCT AND CONFLICT OF INTEREST**

### **GRECO findings and recommendations**

GRECO considers it crucial that codes of conduct provide clear guidance on the prevention of conflicts of interest and on related issues. On the dichotomy between actual (“which is such as to influence”), and potential (“or appear to influence”) conflict of interest, a good practice comes from Ireland. In its Fourth Round Evaluation Report, GRECO welcomed that the Irish system of regulating conflict of interest “is built on a complementary approach in that it covers both potential conflicts, which are to be declared following a standard format at regular intervals, and actual conflicts, which are subject to ad hoc reporting”.

Recommendations issued by GRECO in its Second Evaluation Round devoted to public officials emphasize that, in a significant number of States practices, conflict of interest should be subject to stricter regulation, by limiting or, where appropriate, completely withdrawing the right to be engaged in an ancillary occupation. Legislative or other measures should also be introduced to ensure that all public officials are prohibited from acquiring inappropriate benefits for themselves or their relatives through holding a position as member of the board in State owned companies.

<https://rm.coe.int/codes-of-conduct-for-public-officials-greco-findings-recommendations-p/168094256b>

## **ENSURING TRANSPARENCY AND TACKLING CONFLICT OF INTEREST**

### **France: High Authority for Transparency in Public Life (HATVP) (2014)**

To prevent conflicts of interest, the High Authority collects and controls declarations of interest. The scope is broad and allows listing all current and past activities, financial investments, positions in public or private organisations, professional activity of spouses and volunteer activities. The law of 11 October 2013 on transparency in public life defined the notion of conflict of interest as “a situation in which a private or public interest interferes with a public interest in such a way that it influences or appears to influence the independent, impartial and objective performance of a duty.” When a situation of conflict of interest is detected, the High Authority can meet the public official to recommend him/her an appropriate solution to prevent or stop a conflict of interest. The options can be the revelation of the problematic interest, the reorganisation of work (to avoid handling a subject linked to his/her interest) or the abandonment of an interest. If the situation continues, the High Authority can issue injunctions against the public official (except ministers and members of Parliament) requiring him/her to cease the activity causing the conflict of interest. The injunction can be made public and it can be transferred to a prosecutor. Any non-compliance is a criminal offense liable to a year of imprisonment and a 15 000 € fine.

<https://www.hatvp.fr/>.



### ***Contracts, procurement and outsourcing***

Organisations should ensure that their policies and procedures for contracts, procurement and outsourcing comply with the law and reflect good practice, including:

- transparency, information, publicity and publication requirements for procedures and conditions governing the contract process;
- the use of electronic procurement processes;
- equal treatment of suppliers;
- prohibition of elected representatives' and public officials' involvement in a public procurement process in which they have a direct or indirect interest;
- raising the contractors' awareness of ethical conduct and due diligence requirements;
- ensuring that the organisation to whom the exercise of public functions and the delivery of public services are outsourced or delegated adhere to applicable law and public ethics organisational frameworks.

### ***Lobbying, political activity and revolving doors***

Most public organisations interact with a wide range of organisations and associations outside the public sector and many are subordinate to or have interaction with elected public officials. Public ethics strategies or action plans should seek to achieve a balance between ensuring accessibility to elected public officials and transparency in activities by addressing:

- interaction with lobbyists, registration of contacts, responding to their communications, engaging them in decision-making processes;
- defining public officials' involvement in political activities;
- ensuring that political appointments meet the expectations and requirements of the public ethics organisational framework;
- avoiding undue influence on public officials;
- respecting the decisions reserved by law or regulations to civil servants;
- managing the post-employment mobility of public officials to organisations and associations, including their own organisations or lobby organisations, where knowledge, contacts and access are involved and which may require procedures relating to cooling-off periods, disclosure of offers for future employment, prohibitions on acting as an external contractor or consultant to public organisations.

## ***LEGISLATION ON LOBBYING***

### ***Ireland: Lobbying Act (2015)***

The Lobbying Act was developed in response to the financial crisis and a number of public scandals. The strict approach by which all lobbying activities must be disclosed increases transparency and public trust and provides legal clarity for the lobbyists themselves. This act establishes a mandatory register of lobbyists and lays out its rules. According to the legislation a lobbyist is a person with more than 10 employees that communicate on that person's behalf, works for an advocacy body, is paid to communicate on behalf of a client or communicates on the matter of land development. This broad definition includes NGOs as well as groups representing multinationals. Those who are lobbied are called Designated Public Officials (DPOs) and are defined within the legislation. Non-compliance of the strict set-up will be answered by the application of sanctions and investigations. The law furthermore includes restrictions on post-term employment such as a cooling off period of one year. The Lobbying Act draws no distinction whether a lobbyist is based in Ireland or abroad and looks at all

interactions between Designated Public Officials and lobbyists that take place within the Irish state.

<http://www.irishstatutebook.ie/eli/2015/act/5/enacted/en/print.html>

## **LOBBYING REGISTER**

### ***Finland: Lobbying register***

In the third Finnish Open Government action plan (2017-2019) one goal that was set was to evaluate the need for a lobbying register as well as to evaluate the need for a regulation concerning lobbying. In January 2019 the Speaker of the Parliament established a parliamentary working group to launch the preparations for a lobbying register. The group stated unanimously that a statutory lobbying register should be created in Finland. Parliamentary elections took place in Finland in spring 2019 and the new Government published the Government Programme in June 2019. It is stated in the Government Programme that a law on lobbying register will be enacted following parliamentary preparation. Civil society will be heard in the process. The aim for the legislation is to improve the transparency in decision-making. The work will start in autumn 2019.

## **REVOLVING DOORS**

### ***GRECO findings and recommendations***

A sensitive issue in the area of conflict of interest concerns the applicable rules on how members of parliament engage with lobbyists. In this regard, GRECO has welcomed the establishment of a post-employment ban regarding lobbying activities of former parliamentarians; however, it has also noticed that *'this is only one of the aspects (or activities) that could be performed after the parliamentary mandate. The recommendation on the so-called "revolving doors" is broader and also covers situations, other than lobbying, which could bring about conflicts of interest in the performance of the parliamentary function. While it is clear that a parliamentary mandate will not, as a rule, span a whole career, and that parliamentarians should therefore be provided with fair opportunities to seek outside employment, a proportionate approach is needed in order to prevent instances where the parliamentary mandate, and thereby the legislative process, could potentially be misused by an individual member for personal interest purposes to secure outside employment (notably, in the private sector) once s/he leaves office'*.

<https://rm.coe.int/codes-of-conduct-for-public-officials-greco-findings-recommendations-p/168094256b>

### **LEGISLATION ON POST-EMPLOYMENT**

#### ***Finland: Law on post-employment restrictions in the State administration (2017)***

In the beginning of 2017, the State Civil Servant's Act was amended with a section 44 a that regulates post-employment restrictions. According to the section, an authority may sign a written agreement with a person proposed for appointment before his or her appointment to an office or civil service relationship or during a civil servant's civil service relationship before transfer to a new position, restricting for up to six months term the civil servants' right to transfer to the service of another employer or start practicing a trade or exercising a profession or other similar activities.

In order to call for the signing of a non-compete agreement, the person must in his or her office, duties or position have access to such confidential information or information otherwise protected with provision restricting publicity which could be materially used in new employment or operations for personal or someone else's advantage or to someone else's detriment. In situations referred to above, a non-compete agreement is a precondition for appointment or transfer to a new position.

Compensation equivalent to salary shall be paid for the restriction period. A stipulation on a contractual penalty may be included in the agreement and the maximum penalty sum shall amount to double the compensation paid for the restriction period.

### **ROTATION IN THE PUBLIC ADMINISTRATION**

#### ***GRECO findings and recommendations***

GRECO has emphasised in several cases of considering making wider use of rotation in sectors of public administration particularly exposed to a risk of corruption. In countries where a system of rotation has been put in place for some positions of the public administration exposed to corruption, GRECO observes that national authorities should examine whether this approach could serve as a model for other sectors of public administration if deemed necessary.

<https://rm.coe.int/codes-of-conduct-for-public-officials-greco-findings-recommendations-p/168094256b>

#### ***Abuse of public resources***

The potential for the abuse of public resources should be addressed. Public officials – including elected officials – should not use public funds or other resources (i.e. materials, work contracts, transportation, employees) for political parties and other political purposes. To allow for the effective regulation of the use of public resources, public organisations should clearly define what is considered abuse of public office and public resources. They should also ensure that public officials are not subjected to undue political influence, pressure or intimidation. For civil servants, there should also be measures to limit the use of public equipment and facilities for private purposes and to prohibit the use of work time for private gain.

### ***Handling information***

The information management of public organisations should ensure respect for privacy of all citizens, public officials and civil servants. All information and documents acquired in the exercise of public functions, or in connection with them, should be treated with proper regard for confidentiality. Producing or using information and evidence in a misleading or inaccurate manner should be avoided.

#### ***3.3.3. Specific issues applying to the public administration***

Merit-based selection, recruitment and promotion processes as well as equal opportunities and non-discrimination are of particular relevance to embed a public ethics culture in the public administration. Amongst the best practices in this area are:

- ensuring that the general prerequisites for entry in the public administration are laid down in legislation or other measures adopted in pursuance of the law and are reflected in the public organisation's policies;
- having clear and widely-publicised criteria for recruitment procedures, promotions and performance appraisals, which:
  - are based on merit;
  - avoid arbitrariness, nepotism or favouritism;
  - avoid discrimination while promoting equality and diversity;
- ensuring that recruitment processes are transparent and that decisions on recruitment are well substantiated;
- implementing clear and transparent procedures for complaints, disputes, disqualification, suspensions, termination of duties and dismissal;
- having clearly defined descriptions of responsibilities and duties of officials and publicly-accessible organigrams;
- ensuring that ethical conduct is an important element of discussions and schemes relating to performance and appraisal;
- providing clear and publicly-available information on reimbursements, allowances and remuneration of staff by category and grade;
- raising awareness of unethical practices, including sexism, harassment and misuse of social media and the procedures that have been put in place to address these matters;
- providing thorough induction processes, continuous training and development on public ethics issues and standards of conduct.

## 4. STEP 4: **E**NABLEMENT

Enabling the effective implementation of a public ethics framework requires a wide range of measures and policies. Best practices and standards are described below. As a premise, however, to be effective any public ethics framework must be adequately resourced.

### 4.1. Training

Public officials need guidance to understand and apply public ethics principles to concrete situations and act in accordance with them. This support can be provided through:

- the creation of fora for peer-to-peer exchanges on challenges and experience;
- disseminating information on public ethics through different means such as the intranet, newsletters, discussion groups;
- facilitating access to ethics advisory bodies;
- organising or encouraging awareness raising activities;
- encouraging participation in external training;
- providing internal training on public ethics and ensuring that:
  - it is regularly undertaken;
  - it is tailor-made for specific groups, functions and levels of responsibility;
  - it is accessible through different means (in person, online);
  - it is a compulsory element of any induction programme or, in any case, it is taken into account in the context of the appraisals and promotions, when applicable;
  - it is supported by mechanisms such as mentoring, community groups, work shadowing and advice lines.

#### **TRAINING**

##### ***Belgium: Dilemma training in the Flemish Government***

The training addresses different aspects of a dilemma. A facilitator guides a small group through the training and encourages discussions on various types of dilemma public officials might face. The training aims to shed light on “grey areas” of integrity and different scenarios. Increasingly the training is comprised of tailor-made dilemma cases. The discussion concerning the dilemma is the core of the training and participants are encouraged to internalise values with regard to ethics, leadership, loyalty and behaviour for dealing with conflicts of interest.

<https://overheid.vlaanderen.be/personeel/integriteit/omgaan-met-integriteitsdilemmas>

##### ***Finland: Ethics as a part of training for civil servants at local level***

University courses give the general ethical knowledge base for Finnish civil servants for their work at local level. Some extra practical courses of special questions are provided by Open University and from consulting enterprises. In addition to that, the Association of Finnish Local and Regional Association has a key role as an educator of new local council members and municipal civil servants in ethical questions. The Association provides help desk for municipalities and has published guidance on the subject.

It seems that the most common problematic questions in Finnish municipalities are the conflict of interest and disqualification cases, often linked with public procurement. The Association has made year 2019 AI application, where answer robot was tested and further developed to guide civil servants to recognize the most common disqualification cases in administration. One of the good features of this application is the possibility to test likely problem cases in advance and to guide user to the relevant sections of legislation. In its development phase, only Finnish version is available.

<https://www.kuntaliitto.fi/laki/kunnan-paatoksenteko/esteellisyyt>

***Slovenia: Code of Police Ethics and Programme "Strengthening the police ethics and integrity" (2008)***

The code concerns the relation of police officers with citizens, state authorities, non-governmental organisations and other institutions. With the help of trainings embedded in the Programme "Strengthening the police ethics and integrity" the ethical values of the Code are taught to police officers. Participants learn about rules in situations in which the "right behaviour" is not necessarily black and white, based on principles such as respect for equality before the law, protection of reputation, incorruptibility, public nature of work, professionalism and independence, protection of professional secrecy, mutual relation. The trainings are organised by the working group that drafted the code on topics such as ethics, integrity, code of silence and leadership. During the training presentations explain the theoretical basis of the Code and workshops help put theory into practice.

[https://www.policija.si/eng/images/stories/About%20the%20Police/Police\\_Identity\\_Card/Code\\_of\\_Police\\_Ethics.pdf](https://www.policija.si/eng/images/stories/About%20the%20Police/Police_Identity_Card/Code_of_Police_Ethics.pdf) & [ec.europa.eu/esf/BlobServlet?docId=13945&langId=en](http://ec.europa.eu/esf/BlobServlet?docId=13945&langId=en)

## **4.2. Addressing shortcomings**

In addition to promoting knowledge of the public ethics framework, public organisations should also put in place clear mechanisms and procedures to investigate and address possible breaches of ethical standards. This will include:

### **4.2.1. Formal reporting and protection of whistle blowers**

Procedures for reporting and submitting formal complaints on serious unethical or potentially criminal behaviour should be laid down in law, regulations and codes. There should be internal and external mechanisms to whom misconduct and/or unethical behaviour can be reported. The relevant report should be treated as confidential. The competent body or authority should have an obligation to investigate allegations and to report the results to the whistle blower and an appropriate public organisation.

Guarantees for due process and the legal protection of whistle blowers should be laid down in the law. At organisational level, public organisations should introduce anti-retaliation policies to prevent direct or indirect retaliation against a whistle blower. This should cover measures to prevent, as appropriate, dismissal, suspension, demotion, loss of promotion opportunities, punitive transfers, reductions in or deductions from wages, harassment or any other punitive or discriminatory treatment.

## **WHISTLE BLOWERS' PROTECTION**

### **EU Directive (2019)**

In 2019, the European Union adopted a Directive on the "Protection of persons reporting on breaches of Union law". The new rules will require the creation of safe channels for reporting both within an organisation - private or public - and to public authorities. It will also provide a high level of protection to whistle blowers against retaliation and require national authorities to adequately inform citizens and train public officials on how to deal with whistle-blowing. EU Member States have until October 2021 to transpose the Directive.

<https://data.consilium.europa.eu/doc/document/PE-78-2019-INIT/en/pdf>

### **PACE Resolution 2300 (2019) on Improving the protection of whistle blowers all over Europe**

In its latest text on the matter, the Assembly considers that '*whistleblowers play an essential role in any open and transparent democracy. The recognition they are given and the effectiveness of their protection in both law and practice against all forms of retaliation constitute a genuine democracy indicator*'. It also recommends a number of measures building upon its previous work in this area.

<http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-EN.asp?fileid=28150>

### **Georgia: Law of Georgia on conflict of interest (2015)**

In order to bring it into compliance with international standards, the existing Chapter V of the Law was amended in 2015. The Civil Service Bureau processes the appeals in a confidential manner and then forwards them to the corresponding public entity. The scope of the protection is extended to any person outside the public sector and will not be limited to current or former civil servants. The identity of the whistle blower may only be published upon consent. After disclosure of information the whistle blower is protected from facing disciplinary, administrative, civil or criminal proceedings. The person that is subject to the allegations of the whistle blower is informed and allowed to respond. As part of an extensive awareness raising programme aimed at civil servants a tool, the so called "Red Button" was introduced to the official web-page of the Civil Service Bureau.

<http://csb.gov.ge/uploads/745748.pdf>

### **Ireland: Protected Disclosures Act (2014)**

*Workers who disclose wrongdoing across the public, private and non-profit sectors are legally protected by the Protected Disclosures Act. The concept of "worker" includes a broad range from employees, civil and public servants, members of the police and defence forces, to contractors, agency staff, trainees and interns. Volunteers are not included. The act offers five channels to make a protected disclosure. Among the measures intended to protect the "whistle-blower" from adverse consequences are the protection from dismissal or from penalisation for having made a protected disclosure, immunity from civil liability and the protection of identity.*

<http://www.irishstatutebook.ie/eli/2014/act/14/enacted/en/pdf>

### **4.2.2. Internal control**

The public organisation should identify a person or unit with responsibility for monitoring the implementation of the public ethics framework. The system of internal control should:

- investigate and report intentional and unintentional mismanagement, poor service delivery, compliance with the rules on conflicts of interest, gifts, etc.;
- investigate suspected cases of unethical conduct and, where appropriate, refer them to external control bodies;
- undertake any inquiries in strict confidentiality;
- propose solutions to the problems identified, including revision of procedures and working methods, reorganisation of internal units, training, reassignment of staff, etc.

#### **INTERNAL CONTROL**

##### **UK: Independent Adviser on Ministerial Interests (2006)**

Both the House of Commons and the House of Lords have their own codes of conduct for members. In addition, each Minister is subject to the Ministerial Code, which outlines principles and standards of conduct and behaviour. The Ministerial Code provides guidance on a wide range of integrity related issues such as post-employment restrictions or how to prevent conflict of interest. In 2006 the post of an Independent Adviser on Ministerial Interests was created. The Adviser serves as an internal control body. The Prime Minister can instruct the Adviser to carry out investigations if there is an allegation about a breach of the Code. During the time in office, ministers must seek advice from the Independent Adviser on Ministerial Interests about all possible conflicts between their private interests and ministerial responsibilities.

<http://researchbriefings.files.parliament.uk/documents/SN03750/SN03750.pdf>

##### **GRECO findings and recommendations**

Supervision and enforcement represent a very sensitive area, in particular in relation to members of parliament: one in five recommendations of GRECO's Fourth Evaluation Round refer to failures of supervision and enforcement (23% of all recommendations issued falls in this category). GRECO recommends strengthening the independence of control bodies; clarifying their mandates and powers; providing them with adequate resources adequate; and stepping up inter-institutional co-operation. GRECO also recommends supplementing the range of criminal law measures with internal disciplinary measures.

<https://rm.coe.int/codes-of-conduct-for-public-officials-greco-findings-recommendations-p/168094256b>

### **4.2.3. External control**

One of the purposes of external control is to verify the quality of internal policies, procedures and practices in ensuring the maintenance and effectiveness of the public ethics framework. Control may be exercised by one or a number of oversight authorities or bodies such as ombudspersons, regulatory enforcement agencies, state audit institutions, courts or the legislatures. The authority or body in charge of external control should provide advice, share information on good practice and carry out inspections with regard to the framework, its components and the overall public ethics culture. The findings of external control should be public.



### **4.3. Appropriate sanctions**

Breaches of ethical conduct should be dealt with in a timely and effective manner.

Sanctions should be dissuasive, effective and proportionate. They should be enforced by the internal control mechanism and could include measures such as conciliation; apologies; mentoring; retraining; verbal warning; written warning; fines; demotion; transfer; suspension; dismissal; criminal action; asset recovery.

The disciplinary procedure should be adversarial, with the public officials being allowed to be assisted by a person of their choice.

There should not be automatic sanctions without prior adversarial proceedings and the possibility to appeal, with suspensory effect.

Reasons and procedures for disqualification of a person as a candidate for office and removal of an elected official from office should be strictly and clearly regulated by law.

Public organisations should consider appropriate sanctions for leaders and senior management who support or condone unethical conduct.

### **4.4. Monitoring and reviewing**

A public organisation should maintain appropriate mechanisms and procedures to evaluate the implementation of the ethical framework and formulate proposals on how to strengthen the public ethics organisational culture. Best practice in this area include:

- using risk assessment tools, including surveys, interviews, focus groups, audits, etc.;
- ensuring sufficient internal capacity for monitoring the public ethics organisational culture in practice;
- establishing links between internal and external control mechanisms;
- maintaining accurate books and records;
- publishing regular reports;
- planning awareness-raising and training activities;
- facilitating peer review arrangements with similar public organisations;
- making proposals for changes to working practices, organisational structures, policies and procedures in relation to the promotion of ethical conduct.

### **4.5. Incentives and rewards**

The leadership of an organisation should consider rewarding outstanding ethical behaviour reflecting the organisation's public ethics culture and setting an example for other public officials to follow. These incentives and rewards may include, as appropriate and applicable:

- personal recognition, such as a prize, a distinction such as 'employee of the month', further educational or training opportunities, additional days of annual leave, additional points in view of a promotion or a financial bonus, etc.;
- group recognition, such as asking the group to introduce their initiatives, mentioning the initiatives on the intranet of the public organisation, etc.;
- institutional recognition, such as a certificate, a label for a service or the organisation which complies with ethical standards.

**REWARDS*****United Kingdom: Civil Service Awards (annual programme, established in 2005)***

The Civil Service Awards is a prestigious and long-standing cross-government programme designed to recognise the wealth of inspirational individuals and teams across the civil service, enabling the sharing of best practices across government departments. The programme seeks, among other things, to promote public sector ethics including core civil service values such as integrity, honesty, objectivity and impartiality. The Awards are open to civil servants working for any of the administrations in the UK. Across all categories, nominations are considered against the following criteria: demonstration of civil service values, promotion of diversity and inclusion, measurable benefits and sustainable impact. The Awards salute a wide range of achievements including inspirational leadership, citizenship, diversity and inclusion and serve as a valuable tool in promoting public sector ethics across the country.

<http://www.civilserviceawards.com/page/about-awards>

## APPENDIX

### SELECTED COUNCIL OF EUROPE DOCUMENTS

#### Conventions

Criminal law convention on corruption (ETS No. 173)

Civil law convention on corruption (ETS No. 174)

#### Texts adopted by the Committee of Ministers

Guidelines on public ethics (...)

Guidelines for preventing and combating sexism: measures for implementation (Appendix to Recommendation CM/Rec(2019)1, (section IIE, Public Sector)

Recommendation CM/Rec(2019)3 of the Committee of Ministers to member States on supervision of local authorities' activities;

Recommendation (2017)2 of the Committee of Ministers on the legal regulation of lobbying activities in the context of public decision making

Recommendation (2014)7 of the Committee of Ministers on the protection of whistle-blowers

Decision of the Committee of Ministers adopting the Strategy for innovation and good governance at local level, including the 12 Principles of Good Democratic Governance (2008)

Recommendation (2012)5 of the Committee of Ministers on the European Code of Ethics for Prison Staff

Recommendation (2003)4 of the Committee of Ministers on common rules against corruption in the funding of political parties and electoral campaigns

Recommendation (2000)10 of the Committee of Ministers on Codes of Conduct for Public Officials

Resolution (97)24 of the Committee of Ministers concerning twenty guiding principles for the fight against corruption

#### Texts adopted by the Parliamentary Assembly

Resolution 2300 (2019) on "Improving the protection of whistle blowers all over Europe"

Resolution 2275 (2019) on "Role and responsibilities of political leaders in combating hate speech and intolerance" (para. 13.2)

Resolution 2170 and Recommendation 2105 (2017) on "Promoting integrity in governance to tackle political corruption"

Resolution 2060 (2015) on "Improving the protection of whistle-blowers"

Resolution 1729 (2010) on "Protection of whistle-blowers"

### **Texts adopted by the Congress of Local and Regional Authorities**

Resolution 435 (2018) and Recommendation 424 (2018) on "Transparency and open government"

Resolution 433 (2018) on European Code of Conduct for all Persons Involved in Local and Regional Governance

Resolution 434 (2018) and Recommendation 423 (2018) on "Conflicts of interest at local and regional level"

Recommendation 405 (2017) on "Making public procurement transparent at local and regional levels"

Resolution 402 (2016) on "The misuse of administrative resources during electoral processes: the role of local and regional elected representatives and public officials"

### **Handbooks and other tools adopted by the European Committee for Local and Regional Democracy (CDLR) and Centre of Expertise for Local Government Reform - European Committee on Democracy and Governance and Centre of Expertise for Good Governance**

2004 Handbook of Good Practice on Public Ethics at Local Level

Revised Public Ethics Benchmark

### **Group of states against corruption (GRECO)**

Report on "Corruption Prevention. Members of Parliament, Judges and Prosecutors (Fourth Evaluation Round) – Conclusions and Trends" (2012-2017)

Questionnaire "Preventing corruption and promoting integrity in central governments (top executive functions) and law enforcement agencies" (fifth round) (2016)

### **Venice Commission**

Joint Guidelines on preventing and responding to the misuse of administrative resources during electoral processes (CDL-AD(2016)004), adopted by the Venice Commission at its 106<sup>th</sup> session, Venice, 11-12 March 2016

Report on exclusion of public offenders from parliament, adopted by the Venice Commission at its 104th Plenary Session (Venice, 23-24 October 2015), CDL-AD(2015)036cor

Report on the scope and lifting of parliamentary immunities adopted by the Venice Commission at its 98th plenary session (Venice, 21-22 March 2014) (CDL-AD(2014)011)

Code of Good Practice in the field of Political Parties (CDL-AD(2009)021)

**Consultative Council of European Judges (CCJE)**

Opinion N° 3 (2002) on ethics and liability of judges

**European Commission against Racism and Intolerance (ECRI)**

ECRI General Policy Recommendation No. 15 on Combating hate speech (recommendation 6.a)

**Secretary General**

Secretary General' Reports on the State of Democracy, Human Rights and the Rule of Law

**Code of conduct for Council of Europe staff**

Charter on professional ethics of 15 July 2005