

**Recommendation No. R (2000) 6
of the Committee of Ministers to member states
on the status of public officials in Europe**

(Adopted by the Committee of Ministers

on 24 February 2000

at the 699th meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve a greater unity between its members;

Considering that public administrations play an essential role in democratic societies and that they must have at their disposal suitable personnel to properly carry out the tasks which are assigned to them;

Considering that the establishment and consolidation of democratic institutions require a public administration that complies with the rule of law, is neutral and is loyal to the democratic institutions and is respectful of the people it serves;

Considering that public officials are the key element of the public administration and that they should have the necessary qualifications and an appropriate legal and material environment in order to carry out their tasks appropriately;

Considering that it is essential to promote the participation of public officials in decision-making processes concerning the organisation, structure and principles governing the exercise of public functions;

Considering that public officials have specific duties and obligations due to the fact that they serve the state but that above all they are citizens and in so far as possible should have the same rights as other citizens;

Given the general trend in European countries to reform civil service systems to increase their efficiency, productivity and standards of service to the public and, in this connection;

Having regard to Parliamentary Assembly Recommendation 1303 (1996) on the proposal for a second summit of heads of state and government of the Council of Europe which asked the Committee of Ministers to include the drawing-up of European legal instruments on the civil service;

Having regard to Parliamentary Assembly Recommendation 1322 (1997) on civil service in an enlarged Europe and to the two colloquies organised by the Parliamentary Assembly in Portorož, June 1994, and in Geneva, October 1995, which brought together parliamentarians, governmental officials, experts and representatives of international organisations;

Given the European dimension of the civil service and the existence of common values, which are shared by the member states of the Council of Europe and therefore should be respected in relation to civil services,

Recommends that the governments of member states be guided in their law and in their practice by the principles of good practice annexed to this recommendation.

Appendix to Recommendation No. R (2000) 6

For the purposes of this Recommendation, public officials are any members of staff, whether statutory or contractual, employed by state authorities or departments whose salary is paid out of the state budget, excluding elected representatives and certain categories of staff in so far as they come under special regulations.

The systems governing public officials in Europe lie between two models that can be generally defined as contractual and career system. In the former, public officials are under a contract where conditions apply which are more or less similar to those of employees in the private sector. In the latter system, public officials are subject to a specific status defined by law or regulation.

The choice of system depends on the specific circumstances of each country. Yet, it is important to ensure that, whatever the system, a number of essential principles of good practice, which follow hereafter, are respected, as these principles constitute the very basis of an efficient and citizen-oriented civil service.

1. Legal framework of public officials and implementation

The legal framework and general principles concerning the status of public officials should be established by law or collective agreements and their implementation should be left to the government and/or other competent authorities or settled through collective agreements.

2. Authority responsible for public officials

The management policies relating to public officials should, in general, be the responsibility of the government. In all cases, in order for the civil service to be efficient, it is essential to avoid possible conflict of competence between the various authorities responsible for public officials.

3. Categories and levels of public officials

Where appropriate, the categories and levels of public officials should be defined in the light of the function performed, to which a certain level of responsibility is attached.

4. Conditions and requirements for recruitment

Recruitment of public officials should be defined by equality of access to public posts and selection based on merit, fair and open competition and an absence of discrimination. Some pre-conditions may exist for accessing public posts. In addition, general requirements and specific requirements may exist for recruitment. In so far as they constitute exceptions to these principles, they should be admitted only if lawfully justified.

5. Recruitment procedures

In respect of the principles referred to above, recruitment systems and procedures should be open and transparent, and their rules should be clear. They should allow the best candidate to be appointed to meet the specific needs of the department or organisation concerned.

States should provide for the legal protection of applicants to public positions including, *inter alia*, ensuring the due confidentiality of sensitive information provided in the context of the selection procedure and a legal remedy for the candidates against the decision of the

competent authority.

6. Transfers of public officials

In so far as possible, public officials should not be transferred without their consent unless it is required in the public interest and, in particular, of a good public administration. In all cases, the transfer should not constitute a disguised sanction. Public officials should have a legal remedy against the possible unlawfulness of such a measure.

7. Promotions

Promotions implying a higher level of responsibility should be based on merit.

8. Rights

Public officials should, in principle, enjoy the same rights as all citizens. However, the exercise of these rights may be regulated by law or through collective agreement in order to make it compatible with their public duties. Their rights, particularly political and trade union rights, should only be lawfully restricted in so far as it is necessary for the proper exercise of their public functions.

9. Non discrimination

There should be no unfair discrimination on the basis of, *inter alia*, age, disability, gender, marital status, sexual orientation, race, colour, ethnic or national origin, community background, political or philosophical opinion and religious beliefs, especially concerning the access to public posts and promotion.

10. Participation of public officials

Public administrations should promote participation or consultation of staff in decision-making processes concerning the organisation, structure and principles governing the exercise of public functions.

11. Social protection

States should ensure the social protection of public officials, including pensions, by means of the general social security and pension scheme or by means of specific schemes.

12. Remuneration

Public officials should have an adequate remuneration commensurate with their responsibilities and function. Remuneration should be regarded as a means of achieving desired organisational goals and should be sufficient so as to ensure that public officials are not put at risk of corruption or engaging in activities incompatible with the performance of public duties.

13. Duties

Having due regard to the rights of all citizens, inherent obligations are imposed on public officials in the exercise of their public functions. They include, *inter alia*, respect for the rule of law, loyalty to the democratic institutions, discretion, neutrality, impartiality, hierarchical subordination and respect for the public and accountability.

In addition, in order to ensure that officials devote themselves fully to their public functions and avoid conflicts of interest and corruption, public officials may be subject to certain restrictions regarding second jobs or the carrying out of, or participation in, certain activities.

14. Disciplinary responsibility of public officials

Public officials are responsible for discharging the tasks entrusted to them.

Failure by public officials to fulfil their duties, whether intentionally or through negligence on their part, may lead to the institution of disciplinary proceedings. In this case, the disciplinary proceedings must be adversarial and the officials concerned should be entitled to be assisted by a representative of their choice. Disciplinary action must be lawfully established. Public officials should have a legal remedy against disciplinary action.

15. Training

Ongoing training is an essential element for an efficient system of public administration. It is the task of the government to offer public officials relevant training in the frame of an appropriate training policy for them. Public officials should therefore have the right and the duty to undergo relevant training without discrimination. Furthermore, training may be a condition of promotion.

16. Termination of public officials' employment

Termination should only occur in the cases and for the reasons provided for by law. A legal remedy should be available in all cases to protect public officials against misuse of authority.

17. Protection of public officials

A legal remedy before a court or other independent institution should be available to public officials for the protection of their rights in relation to their employer.


The state should provide for the protection of public officials who, because of the lawful performance of their public duties, are the subject of abusive claims or other illegal acts by third parties.

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ExpRec(2000)6

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