

ETHICS OFFICE

Annual report



**"A Promising Start...
Work Still To Do**

ANNUAL REPORT
2019-2020

English

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

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MISSION STATEMENT

The function of an Ethics Officer was established on 1 April 2019 to provide an independent advisory function to the Secretary General with respect to ethics related matters.

The Ethics Officer provides guidance and advice on ethical issues to staff and any other person taking part in the Council of Europe activities.

The Ethics Officer reports directly to the Secretary General under a limited term appointment not to exceed eight years. The first Ethics Officer was appointed for a trial period of one year with possibility of renewal. The Ethics Officer mandate is available at www.coe.int/ethics.

The Ethics Officer is required to submit an annual report to the Secretary General outlining all ethics related activity in the Council of Europe for the year in review. When the Ethics Officer function was created, it was with the understanding that he would, after a first year in office, assess the needs of the Council of Europe based upon his experience during that first year. The present report constitutes the first annual report of the Ethics Officer. It sets out the experience to date and makes proposals for the future.

MESSAGE FROM THE ETHICS OFFICER

No country or institution is immune to corruption or unethical behavior. The Council of Europe is no exception. It would be erroneous to assume that, because of the specificities of its activities, the Council of Europe and its organs are not exposed to pressures by various interest groups (whether public or private). In matters of ethics, we must practice what we preach and lead by example. It is exemplarity that is expected from public office-holders. This duty of exemplarity applies to everyone who works for or at the Council of Europe. This includes staff members (including senior management), the judges of the European Court of Human Rights, members of the Parliamentary Assembly of the Council of Europe (PACE) or Congress, the INGOs Conference members, and experts participating in the Council's activities. No one is above the law.

The 2017 allegations of corruption and fostering of interests made against some members or former members of PACE have been a "wake-up call" for the Council of Europe as whole. The Organisation reacted immediately. PACE set up an Investigative Body (IBAC) whose report is now publicly available. PACE also requested GRECO's opinion on its integrity framework. Both IBAC's and GRECO's recommendations have led to a number of reforms within PACE. More broadly, the Secretary General had already strengthened DIO's investigative capacity at the end of 2015 and, more recently, on 1 April 2019, set up the function of Ethics Officer. In doing so, the Secretary General appropriately distinguished the preventive/advisory (Ethics Officer) and the audit/investigative (Directorate of Internal Oversight (DIO) and Directorate General of Administration (DGA)) roles. All staff were also required to undergo a compulsory ethics training. The Council of Europe is in the process of substantially reforming its ethics and integrity framework applicable to staff (and, ideally, to any person participating in the Council's activities), on the basis of an external independent review.

Reflecting on the first year of work of the Ethics Officer, it is undeniable that the Organisation's awareness of ethics issues has grown, including at senior management level. It is also clear from the number and type of individual requests for advice addressed to the Ethics Officer (see Section 1) that the creation of the Ethics Officer function responded to a real need and is generally welcomed by staff and persons participating in our activities. The Ethics Officer has become a "go-to" person for most ethics-related questions and the vast majority of the advice given by the Ethics Officer was followed. The Ethics Officer proactively addressed horizontal issues by making general recommendations to the relevant sectors of the Organisation and co-operated closely with them. Co-operation with DIO, DGA, Protocol, and the Private Office (PO) of the Secretary General and Deputy Secretary General has been very smooth.

During its first year of operation, the Ethics Officer has set up the necessary internal processes and procedures to carry out his mandate. A dedicated website has been set up (www.coe.int/ethics), and an e-mail address (ethics@coe.int) has been created and regularly used by staff to seek the Ethics Officer's confidential advice. In consultation with the Data Protection Commissioner, appropriate procedures have been put in place to ensure the confidentiality of the information received by the Ethics Officer. Externally, the Council of Europe's Ethics Officer has gained membership in the Ethics Network of Multilateral Organisations (ENMO) which comprises the Ethics Officers or representatives with the main responsibility for ethics functions in multilateral and intergovernmental organisations. ENMO has already been a source of valuable information for the Ethics Officer.

Looking forward to the next year, now that the Ethics Office is in place, we are at a crossroads. As the Organisation further develops the ethics function, it is important to provide it with the necessary resources to carry out its tasks.

I want to thank the previous and current Secretaries General and the Deputy Secretary General, senior management, and all staff members for their unwavering openness and co-operation and for their support for ethics at the Council of Europe. I look forward to working with you all in the coming year.

Gianluca Esposito
Council of Europe's Ethics Officer

SECTION 1: APRIL 2019-APRIL 2020 ACTIVITIES AND OPERATIONS

This section provides 1 April 2019 – 1 April 2020 data illustrating the range of ethics issues on which the Ethics Officer was contacted directly for advice. All the matters brought to the attention of the Ethics Officer were responded to and resolved through advisory consultations (either by e-mail or in person and generally provided within 24 hours) or referral to the appropriate sectors within the Council of Europe. The data also reflect the areas in which the Ethics Officer proactively provided advice on matters of general interest to the Organisation as a whole.

2019/2020 ADVISORY CASES

From 1 April 2019 to 1 April 2020, the Ethics Officer responded to 124 requests for advice, i.e., a consistent average of 2 to 3 requests per week. The majority of requests for advice concerned conflicts of interest issues, both personal and financial (including in, but not limited to, the context of procurement). While most requests came from staff members, a few originated from persons participating in the Council of Europe's activities who are not staff (e.g., experts, service providers). There is an almost even distribution between women and men seeking advice from the Ethics Officer.

There are a number of areas where the Council of Europe's legal framework provides little to no guidance (see also Section 3 below): in these areas, the Ethics Officer provided his best professional advice based on international standards and good practice (e.g. the 2013 Standards of Conduct for the International Civil Service adopted by the International Civil Service Commission, comparative experience in other international institutions, Council of Europe's standards). A detailed procedure related to the declaration of gifts has been made available to all staff. In the vast majority of cases, the Ethics Officer advice has been followed.

Advice by category	in 2019
Personal conflicts of interest	21
Financial conflicts of interest	21
Gifts/decoration	14
External/Secondary activities	17
Political activities	6
Close relatives	8
Social media/web	6
Obligation as an international civil servant	6
Use of CoE resources	6
Sponsoring of the Staff Association	6
CoE Bodies/Committees-related	7
Work-related behaviour	6
Total	124



SECTION 2: TRAINING AND OUTREACH

The Ethics Officer relied on the existing training modules developed by DIO to promote ethics training across the Organisation. In 2019, a compulsory online 'Ethics' training was developed by DIO and made available to all staff. As of 31 March 2020, 2702 staff members (representing approximately 98% of all staff) undertook this training. In addition, in November 2019, DIO launched an e-learning on "Fraud awareness and prevention" and made it available to all staff. This training was made compulsory for those involved in procurement or grant award in any capacity and/or having an official financial role. As of 31 March 2020, 1463 staff members have followed this training. The purpose of this e-learning tool is to familiarise staff with the Organisation's anti-fraud and anti-corruption policy and provide information on how to identify, report, and deal with suspicious activities.¹

The Ethics Officer proactively reached out, advocated for, and/or provided inputs to the relevant sectors, as regards (i) the possible development of a single uniform "conflicts of interest clause" applicable to all Council of Europe's contracts; (ii) changes to the rules relating to elective mandates of staff members at regional and local level; (iii) the definition of "close relatives"²; (iv) the use of social media³. (See also Section 3.) This advice will feed into the ongoing revision of the ethics-related regulatory framework of the Council of Europe.

The Ethics Officer took the initiative to contact the candidates for the post of Deputy Secretary General to recall the applicable ethics and integrity standards and to provide general guidance to be followed during the ongoing election process.

Upon request by the co-Chair of the European Parliament Anti-Corruption Intergroup, the Ethics Officer provided information about the Council of Europe's experience in setting up an ethics function.

¹ More information on relevant trainings can be found in *DIO's Annual Report* for 2019 and its reports on 'Declarations of interests in the context of procurement and grant award'

² In the context of recruitment, cf. Rule No. 744 on conditions of recruitment of an applicant who is the close relative or spouse of a permanent member of the Council of Europe's staff.

³ Guidelines on the use of social media at the Council of Europe exist and are available here: <https://rm.coe.int/CoERMPublicCommonSearchServices/sso/SSODisplayDCTMContent?documentId=09000016807205fc>

SECTION 3: FUTURE DEVELOPMENTS AND GOING FORWARDS

The Ethics Officer performs a key preventive, advisory function. If the Ethics Officer's advice (which is confidential and non-binding) is effectively implemented, it can positively contribute to achieving the Organisation's goal to adhere to the highest ethical standards and avoid damaging the functioning and the reputation of the Council of Europe. With this in mind, the Ethics Office should be adequately resourced to carry out its functions. While it was appropriate to appoint an existing staff member with knowledge of the issues for an initial period, in the medium to long term it may be considered to further reinforce the Ethics Office, in particular in the event it was decided that the Ethics Office takes on further tasks related to its preventive role.

To this end, it could be envisaged to appoint an experienced Ethics Officer coming from outside the Organisation for a fixed non-renewable term who would be provided with the necessary administrative and human resources support for the exercise of her/his function. As it is currently the case, the person appointed should report directly to the Secretary General. Given the number of questions received in relation to conflict of interest, and subject to being adequately resourced, the Ethics Office could possibly take over the management of the "Declarations of interests in the context of procurement and grant award" from DIO as they are closely related to the preventive role carried out by the Ethics Officer.

On substance, the Council of Europe's ethics framework is being improved, in light of the recommendations issued by an external consultant and DIO. Such a framework should be aligned with the best international standards and practice, which include those of certain Council of Europe's bodies themselves. While this work is ongoing, the Ethics Officer wishes to draw the attention to certain areas where improvements to the existing framework are needed.

These include:

- (i) fostering the application of ethics and integrity standards to all persons participating in the Council of Europe's activities, including the Judges of the European Court of Human Rights⁴, Congress members, and experts participating in the Council of Europe's activities⁵;
- (ii) a definition of, and rules relating to, "close relatives";
- (iii) aligning the Council of Europe regulations to the 2013 "Standards of Conduct for the International Civil Service" which clearly states that "international civil servants, while retaining the right to vote, should not participate in political activities, such as standing for or holding local or national political office";
- (iv) developing a comprehensive whistleblower protection policy in line with the Council of Europe's own standards which it recommends to member States;
- (v) providing for, in the Council of Europe's internal regulations, rules relating to post-employment provisions for staff;
- (vi) developing and effectively implementing rules relating to the use of social media;
- (vii) developing a uniform conflicts of interest clause for all contracts with external providers;
- (viii) developing conflict of interest provisions in relation to recruitment procedures;
- (ix) clearly regulating the sponsoring of the Amicale's activities (external sponsoring by private companies, especially where they are existing Council of Europe service providers, should be avoided).

⁴ A 2008 Resolution on judicial ethics is applicable to the judges of the European Court of Human Rights and is available here: https://www.echr.coe.int/Documents/Resolution_Judicial_Ethics_ENG.pdf. It needs to be updated in line with current international standards and best practice.

⁵ See also DIO report on – "Integrity mechanisms for persons that participate in the Council of Europe's activities". It is key that, as recommended in that report, parties are made aware, when first participating in the activities of the Council of Europe and / or granted access to its premises, of the principles and standards which they are required to respect at the Council of Europe. It is also proposed to establish a simple response plan to be able to take swift decisions in case of suspicions of wrongdoings. These are simple yet important recommendations which would deserve attention and be implemented as soon as possible.

⁶ PACE and the INGOs Conference have already taken steps to improve their respective ethics and integrity frameworks.

THE COUNCIL OF EUROPE CORE VALUES

Ethics is a set of principles and values that guide the way in which we behave as individuals and as a group. Ethics shapes who we are as an individual and as an organisation. The following values are key for the Council of Europe: independence, integrity, respect, accountability, and professionalism. Ethics is an absolutely essential issue for our Organisation, which therefore expects its staff and any person participating in its activities to respect these values which are rooted both in the internal regulations and in the Organisation's culture.

Information disclosed to the Ethics Officer will be handled confidentially. If you have an ethics-related question, please contact the Ethics Officer at ext. 2841 or send him an e-mail at ethics@coe.int. More information about the Ethics Office is available at www.coe.int/ethics.